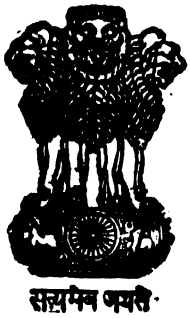

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PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

VOLUME I, 1952

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Fifth Session

of

PARLIAMENT OF INDIA

1952

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THE

PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

PARLIAMENT OF INDIA

Wednesday, 13th February, 1952

The House met at a Quarter to Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

"THIKRI PAHRA"

*68. **Shri Raj Kanwar:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether the system of "Thikri Pahra" for night watch and ward is still in force in the rural areas of some Part 'C' States;

(b) if so, the names of such States; and

(c) if this system is considered satisfactory from the public point of view, whether Government propose to extend its scope to other areas of such States where it does not exist?

The Minister of State for Home Affairs (Shri Sidhva): (a) and (b). The system does not exist in any Part C States.

(c) This does not arise; but in any case Government have no such proposal under consideration.

Shri Amolakh Chand: May I know what the system "Thikri Pahra" means?

Shri Shidhva: This is a watch and ward system which exists in villages in some States where the villagers are required to perform patrol duty at night.

NEWLY CREATED POSTS

*70. **Shri Raj Kanwar:** Will the Minister of **Home Affairs** be pleased to state the total number, Ministry-wise, of newly created posts advertised by the Union Public Service Commission and its predecessor, the Federal Public Service Commission, during the years 1949-50, 1950-51 and 1951-52 (till the end of December, 1951)?

The Minister of State for Home Affairs (Shri Sidhva): The required information is being collected and will be laid on the Table of the House in due course.

Shri Rathnaswamy: Is it a fact that a number of gazetted and non-gazetted posts were created during the years 1949-50, 1950-51 and 1951-52 without consulting the Union Public Service Commission? May I know how many posts were filled up without taking into consultation the Public Service Commission?

Shri Sidhva: The Union Public Service Commission is concerned with recruitment of persons. It has nothing to do with grades and salaries and creation of posts. That is the function of the administrative Ministry in consultation with the Ministry of Finance. The Public Service Commission is concerned with recruitment only.

Shri Rathnaswamy: My question was whether any posts were filled without taking into consultation the Union Public Service Commission.

Mr. Speaker: That question has already been replied to by him. He said that it is concerned only with recruitment.

Shri Raj Kanwar: May I know how far the creation of new posts was counterbalanced by the reduction of the already existing posts as a measure of economy?

Shri Sidhva: It is a different matter altogether.

Mr. Speaker: The whole matter is under investigation now. He will get the information.

OIL FIELDS (KANGRA)

*71. **Dr. Tek Chand:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) (i) the action, if any, taken by the Government of India on the recommendations made in 1949 by a Committee consisting of Mr. V. H. Bolleau,

Petroleum Geologist, and Mr. M. G. Kohli for exploring possible oil-fields in Kangra hills;

(ii) whether the detailed survey of Jawalamukhi sector, interrupted by the 1949 monsoon, had been resumed and completed; and

(iii) whether further investigations had been conducted on oil indications noticed by the Committee

(1) near Pathankot-Kangra Road,

(2) between Dharamsala and Palampur,

(3) between Sujanpur Tihra-Nagrota, and

(4) the area south of Palampur; and

(b) if the answer to part (a) (i), or part (a) (ii) above be in the affirmative, what is the result of these investigations?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) (i) and (ii). Two officers of the Geological Survey of India Messrs. V. H. Boileau, Petroleum Geologist and M. G. Kohli, Geologist, surveyed Kangra District including Jawalamukhi sector in 1949-50 and recommended that the survey be continued during 1950-51. This was done and the two officers have now completed a report on the work done. Copies of the report are being made and a copy will shortly be laid on the Table of the House.

(iii) (1). Reports made to the field party consisting of Messrs. Boileau and Kohli about alleged oil indications near Pathankot-Kangra Road, could not be confirmed by the field party.

(2) to (4). The area between Dharamsala and Palampur, between Sujanpur Tihra-Nagrota and the area south of Palampur were mapped in detail, but the alleged oil indications could not be confirmed by the Geologists working in the field.

(b) It is understood that in their report Messrs. Boileau and Kohli have recommended test drilling for proving actual existence of oil near Jawalamukhi and also a further exploration programme.

Dr. Tek Chand: Has this report now been received and what is the substance of the report? Can the hon. Minister indicate it without going into details?

Shri Sri Prakasa: The report has not yet been received here. It is now with the Geological Survey of India, Calcutta. As I have said in the answer to the original question, our earlier Geologists said that there was no oil in this area because the indications were different to the indications found in Assam which is our repository of oil. But it did transpire that the indications near Jawalamukhi are similar to the indications in South-west Persia where there is plenty of oil, and therefore there is a chance of getting oil there; but before going further, we naturally want to test. Even that is going to cost us Rs. 2 crores. Therefore it is not certain when we would be able to embark upon this scheme.

Dr. Deshmukh: May I know whether these two experts have carried out explorations anywhere else in this area?

Mr. Speaker: Anywhere else in India?

Dr. Deshmukh: Yes.

Shri Sri Prakasa: I have not got the dossiers of these two officers here with me.

Shri M. Naik: May I know whether any survey was conducted in Kutch and whether any oil has been found?

Shri Sri Prakasa: Yes, Sir. There was investigation in Kutch also. The report I have got about Kutch says: "Further work by Mr. Poddar, Geologist, Geological Survey of India, on the structures of Northern Kutch confirms penetration by Deccan Traps. There is therefore no likelihood of oil accumulation in this area."

Closed Banks of West Bengal

*72. **Shri A. C. Guha:** Will the Minister of **Finance** be pleased to state whether there is a proposal from the Reserve Bank to set up a committee to enquire into and to expedite the work of the liquidators of the closed banks of West Bengal?

The Minister of Finance (Shri C. D. Deshmukh): Yes, Sir. The proposed Committee will consider measures necessary for expediting liquidation proceedings of banking companies in general including the West Bengal banks in liquidation. The Committee has not, however, been set up so far. Its constitution and terms of reference are under consideration.

Shri A. C. Guha: May I know, Sir, when the Committee is expected to start work?

Shri C. D. Deshmukh: The constitution, the personnel and the terms

of reference of the proposed Committee are under active consideration in consultation with the Reserve Bank of India and the Ministry of Law and I do not anticipate any delay in the setting up of the Committee.

Shri A. C. Guha: I would like to know what steps the Government have taken to expedite the liquidation process in the case of the West Bengal Banks.

Shri C. D. Deshmukh: The Committee will find out how it could be expedited. We know that the main obstacles are legal ones. That is to say, we have come to the conclusion that unless far-reaching changes are made in the law as also in the rules governing the procedure obtaining in the High Courts, it would be difficult to expedite liquidation proceedings of banking companies.

Shri M. Naik: May I know whether the Committee to be set up under the Reserve Bank of India will have any control over the liquidation proceedings?

Mr. Speaker: That is entirely under the control of the Court under the provisions of Company Law.

Shri M. Naik: May I know whether the Reserve Bank of India has any hand in expediting matters?

Mr. Speaker: I will refer him to the Reserve Bank Act.

Dr. Deshmukh: May I know whether the control of the Reserve Bank of India over these banks has been more strict recently and has this resulted in creating difficulties for the commercial community in obtaining financial facilities?

Shri C. D. Deshmukh: That is a different question, Sir.

Mr. Speaker: The connection is in this way. The suggestion is that because of the stricter control by the Reserve Bank of India, credit is not easy. This is the connection.

Shri C. D. Deshmukh: If there is stricter control, there is less danger of liquidation.

Tour Expenditure of Ministers

*73. **Prof. K. T. Shah:** Will the Minister of **Home Affairs** be pleased to state the amount of tour expenditure at Government expense by each of the Cabinet Ministers, Ministers of State and Deputy Ministers, since the 15th of October, 1951 to the end of January, 1952?

The Minister of State for Home Affairs (Shri Sidhva): I lay on the Table of the House a statement containing the information asked for. [*See* Appendix I, annexure No. 13.]

Shri Kamath: In view of the fact, Sir, that the Finance Minister on some other occasion, I believe, in connection with the Congress Session at Nasik, said that care would be taken to see that the T. A. drawn by Ministers, Ministers of State and others was for official purposes only, may I know what care was taken on this occasion, during these three months October-January, to see that the T.A. drawn by Ministers was only for official work and not for election work?

Shri Sidhva: It is all for official duty and it has nothing to do with elections.

Shri Kamath: The statement shows —I do not wish to cast any reflection on the conduct of any Minister —that the Health Minister has drawn far more T.A. than any other Minister. Is it possible to give a breakup of this item?

Shri Sidhva: I can assure my hon. friend that the amount which has been mentioned relates only to official duties. It has nothing to do with the tours of Ministers in connection with the elections.

Shri Kamath: I would like to have a breakup for the various tours undertaken by the Minister.

Shri Sidhva: It relates to the actual fare and the allowances.

Shri R. Velayudhan: When a Minister is on official tour can he also take up election work either for himself or for his party on behalf of somebody else?

Shri Sidhva: I do not know what the hon. Member means by asking when a Minister goes on official duty whether he can also do some election work.

Shri R. Velayudhan: May I know whether any strict instruction had been issued to Ministers not to misuse their powers or privileges?

Mr. Speaker: What the hon. Member really means is that supposing a Minister goes to a particular station like Bombay for certain official work, can he not address a public meeting in the evening after he had done his official work?

Shri Sidhva: I think he can do that and there is nothing wrong in it, if he had gone there primarily on official duty.

Shri Kamath: The Prime Minister said the other day that so far as he was concerned wherever he went for election work his tour programme was sent to all officials in the place of visit, thus lending an official colour to his tour. Does this apply to all Ministers or only to the Prime Minister?

Mr. Speaker: I do not think it arises out of this question.

IMPORT OF GOLD AND SILVER

*74. **Prof. K. T. Shah:** Will the Minister of **Finance** be pleased to state:

(a) the amount of gold and silver smuggled into India since the 15th August, 1947, in each successive financial year or part thereof, upto the end of December 1951; and

(b) what is the total value of gold and silver seized, impounded or forfeited by the Government of India since the 15th August, 1947, in each successive financial year or part thereof, upto the end of December 1951?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). It is obviously not possible to know the amounts of gold and silver actually smuggled into India. The figures for gold and silver seized, impounded or forfeited by the Government of India since the 15th August, 1947, are being collected and a statement will be laid on the Table of the House when the information is complete.

Shri Shiva Rao: May I know whether any further steps have been taken after the debate which took place in this House last September to increase the effectiveness of the preventive operations in regard to smuggling?

Shri C. D. Deshmukh: Every effort is being made to intercept smuggling of gold and we are making arrangements to improve our control. Several launches for patrolling the coast are under indent and jeeps have been supplied for patrolling land frontiers. Gold detectors to detect concealed gold have been constructed, and are under trial.

Shri M. Naik: May I know whether there was any organised smuggling squad which has been discovered by the Government and if so, what steps have been taken to round it up?

Shri C. D. Deshmukh: In the first place I do not know of any organised gang but if it is known to the customs officers, the only step they can take is to keep a particularly vigilant watch on them and their activities.

D.V.C.

*69. **Shri S. N. Das** (on behalf of **Shri Jnani Ram**): Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) when the work in Chharwa Dam (D.V.C.) in Hazaribagh was started;

(b) when it is expected to be finished;

(c) the area originally acquired for the dam;

(d) whether any further area for the dam has been acquired; and

(e) whether the tenants of village Kachapur were stopped from felling timber from forest area during October, 1951?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) 15th September, 1951.

(b) 30th March, 1952.

(c) Total area under acquisition is 416.74 acres.

(d) No, Sir.

(e) Yes, Sir.

Shri B. K. Das: Do I understand that this is one of the minor dams and not one of the seven main dams being constructed?

Shri Sri Prakasa: That is so. This work has been undertaken at the desire of the Government of Bihar on behalf of the municipality of Hazaribagh.

Shri B. K. Das: How many such minor dams have been constructed in that area?

Shri Sri Prakasa: It is the only one that I am aware of at the present moment.

Shri Rudrappa: May I know whether the time which was originally estimated has been kept up in the construction of this dam?

Shri Sri Prakasa: The time will end on the 30th March, 1952 and if we are still functioning after that I shall be able to answer the question.

Shri M. Naik: May I know whether any compensation has been paid for the lands acquired or other lands given in exchange?

Shri Sri Prakasa: These are Government forests and the Government and the Municipality have an

understanding among themselves for this purpose.

Shri A. C. Guha: What is the number of tenants who have been evicted through the process of acquisition of land and how have they been rehabilitated?

Shri Sri Prakasa: No tenants have been evicted. They are Government forest lands and full of trees. When the people round about heard that there was going to be a dam at that site and the forest would go, they started cutting down the trees. They were prevented from doing so.

WRITTEN ANSWERS TO QUESTIONS

AUDIO-VISUAL AIDS

6. **Shri Raj Kanwar:** Will the Minister of **Education** be pleased to state what steps, as a result of the recent conference convened by the Ministry of Education, are proposed to be taken to give a fillip to the manufacture of cheap audio-visual aids and equipment from Indian material?

The Minister of Education (Maulana Azad): The various recommendations of the Audio Visual Education Conference have been brought to the notice of the State Governments for their consideration and necessary action.

Certain pilot projects for the training of personnel and the production of cheap visual aids are under consideration of the Government and they are being integrated with the plans for Social and Basic education as visualized by the Planning Commission.

NATIONAL INCOME

7. **Shri Raj Kanwar:** Will the Minister of **Finance** be pleased to state:

(a) when the enquiry into the national income, now being made by the National Income Committee, is likely to be completed;

(b) whether any date for the submission of the Committee's Report has been fixed; and

(c) whether a copy of the Report, when ready, will be placed on the Table of the House?

The Minister of Finance (Shri C. D. Deshmukh): (a) The National Income Committee will complete the present enquiry on the National Income of India for the years 1948-49 and 1949-50 shortly and it is expected that the Report would be available by the end of March this year.

(b) No.

(c) Yes.

COMPANY LAW COMMITTEE

8. **Shri Raj Kanwar:** Will the Minister of **Finance** be pleased to state:

(a) whether the Company Law Committee appointed to survey and review the entire field of Company Law, has submitted its Report; and

(b) if not, when it is likely to do so?

The Minister of Finance (Shri C. D. Deshmukh): (a) No, Sir.

(b) Sometime in February, 1952.

सत्यमेव जयते

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

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GIPD—LAD—228 PS—22-11-52—450.

CORRIGENDA

to

the Parliamentary Debates (Part II—Other than Questions and Answers), Fifth Session, 1952

In Volume I,—

1. No. 2, dated the 6th February, 1952,—

   (i) Col. 23, line 33 *for* "to provide for" *read* "further to amend", and in line 2 from bottom *for* "further to amend" *read* "to provide for".

2. No. 5, dated the 12th February, 1952,—

   (i) Col. 309, *for* existing last line *read* "chancellories or in government, but"

   (ii) Col. 362, line 31 *for* **"Kamth"** *read* **"Kamath".**

3. No. 6, dated the 13th February, 1952,—

(i) भाग ३९१, पंक्ति १५ में "एम जुनही" के स्थान पर "जुल्म नहीं" पढ़ें ।

(ii) भाग ३९२, पंक्ति २५ में "वतक" के स्थान पर "वक्त" पढ़ें ।

   (iii) Col. 443, line 8 *for* "ony" *read* "only".

(iv) کالم ۴۷۲ آخری لائن کے شروع میں ۵۰ ملی ہیں ان کے متعلق ۵۰ پڑھیں —

   (v) Col. 529, *for* existing last line *read* "excess of such moisture as may reasonably be expected, by watering the".

   (vi) Col. 530, *insert* "both parties are protected. They pro-" as last line.

4. No. 8, dated the 15th February, 1952,—

   (i) Col. 648, *after* line 7, *insert* "this demand has come before the House today, that".

   (ii) Col. 658, line 32 *for* "OUTLAY" *read* "OUTSIDE".

   (iii) Col. 659, line 6 from bottom *for* **"Jagivan Ram"** *read* **"Jagjivan Ram"**

   (iv) Col. 676, last line *for* "liament" *read* "Parliament".

   (v) Col. 686, line 16 from bottom *for* **"Gapalaswami"** *read* **"Gopalaswami".**

5. No. 9, dated the 18th February, 1952,—

(i) भाग ८०३, नीचे से पंक्ति ४ में "जचित राम" के स्थान पर "अचित राम" पढ़ें ।

6. No. 11, dated the 20th February, 1952,—

(i) भाग १००७, पंक्ति ९ को "की जरूरत है" पढ़ें ।

7. No. 14, dated the 23rd February, 1952,—

   (i) Col. 1184, line 8 *for* **"Jagivan Ram"** *read* **"Jagjivan Ram".**

   (ii) Col. 1191, *for* existing line 4 *read* **"Clause 6** —*Contributions and matters*".

(iii) भाग १२२७, पंक्ति १० में "यत्य" के स्थान पर "खत्म" पढ़ें ।

8. No. 15, dated the 25th February, 1952,—

(i) भाग १२५४, पंक्ति २४ में "रती" के स्थान पर "तीर" पढ़ें ।

9. No. 19, dated the 29th February, 1952,—

   (i) Col. 1564, in the beginning of line 17 from bottom *insert* "voted".

   (ii) Col. 1612, line 3 from bottom *for* "purpose" *read* "propose".

(iii) भाग १६२४, पंक्ति '५ में "खउन" के स्थान पर "उस ने" पढ़ें ।

THE

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

PARLIAMENT OF INDIA

Wednesday, 13th February, 1952

The House met at a Quarter to Eleven of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(See Part I)

11-2 A.M.

DEATH OF SHRI T. A. RAMALINGAM CHETTIAR

Mr. Speaker: Before we proceed further, I have to inform the House of the sad demise of Shri T. A. Ramalingam Chettiar who died in Coimbatore on the 12th February, 1952. He was one of the oldest and respected Members of the Central Legislature and Parliament and was also elected to the House of the People this time.

I am sure the House will join with me in conveying our condolence to his family. The House may stand in silence for a minute and express its sorrow.

RESIGNATION OF SHRI BRIJLAL BIYANI

Mr. Speaker: I have to inform hon. Members that Shri Brijlal Biyani has resigned his seat in Parliament with effect from the 11th February, 1952.

PAPERS LAID ON THE TABLE

AMENDMENT TO REGULATION 6 OF THE INDUSTRIAL FINANCE CORPORA- OF INDIA EMPLOYEE'S PROVIDENT FUND REGULATIONS

The Minister of Finance (Shri C. D. Deshmukh): I beg to lay on the

Table a copy of certain amendment to Regulation 6 of the Industrial Finance Corporation of India Employees' Provident Fund Regulations under sub-section (3) of Section 43 of the Industrial Finance Corporation Act, 1948. [Placed in library. *See* No. P-258/52]

ABDUCTED PERSONS (RECOVERY AND RESTORATION) AMENDMENT BILL

The Minister of States, Transport and Railways (Shri Gopalaswami): I beg to move for leave to introduce a Bill to amend the Abducted Persons (Recovery and Restoration) Act, 1949.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Abducted Persons (Recovery and Restoration) Act, 1949."

The motion was adopted

Shri Gopalaswami: I introduce the Bill.

INDIAN BOILERS (AMENDMENT) BILL

The Minister of Works, Production and Supply (Shri Gadgil): I beg to move for leave to introduce a Bill further to amend the Indian Boilers Act, 1923.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Boilers Act, 1923."

The motion was adopted.

Shri Gadgil: I introduce the Bill.

BOMBAY PORT TRUST (AMENDMENT) BILL

The Minister of State for Transport and Railways (Shri Santhanam): I beg to move for leave to introduce a Bill further to amend the Bombay Port Trust Act, 1879.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Bombay Port Trust Act, 1879."

The motion was adopted.

Shri Santhanam: I introduce the Bill.

DELHI AND AJMER RENT CONTROL BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

Pandit Thakur Das Bhargava (Punjab): I beg to present the Report of the Select Committee on the Bill to provide for the control of rents and evictions, and for the lease of vacant premises to Government, in certain areas in the States of Delhi and Ajmer.

RESOLUTION *RE* PUNJAB TENANTS (SECURITY OF TENURE) AMENDMENT ACT, 1951

Mr. Speaker: We now proceed with Resolutions.

Pandit Thakur Das Bhargava (Punjab): I beg to move:

"This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of powers) Act, 1951, the following modifications be made by the President in the Punjab Tenants (Security of Tenure) Amendment Act, 1951 laid on the Table on the 6th February, 1952 by enacting an amending Act:

Section 2

1. That for section 2, the following be substituted, namely:—

"2. *Amendment of Section* 1, *Punjab Act XXII of* 1950.—Sub-section 4 of section 1 of the Punjab Tenants (Security of Tenure) Act, 1950 (hereinafter referred to as the principal Act), shall be omitted."

Section 3

2. That for section 3, the following be substituted, namely:—

"3. *Amendment of section* 2, *Punjab Act XXII of* 1950.—Clauses (3), (4) and (5) of section 2 of the Principal Act shall be omitted.

3. That in clause (i) of section 3,—

(i) for the figures and word "50 and 100" the figures and word "75 and 150" be substituted, and

(ii) the following be added at the end namely:—

'and the words "but in hilly areas such limit shall be deemed to be 150 and 300 acres" shall be added at the end'.

4. That after clause (ii) of Section 3, the following new clause be added, namely:—

(iii) for clause (7) the following shall be substituted, namely:—

"(7) Other terms used but not defined in this Act stall have the meanings assigned to them in the Punjab Tenancy Act of the Punjab Land Revenue Act 1887 but the term land shall not include gardens or banjar lands."'

Section 4

5. That for section 4, the following be substituted, namely:—

"4. *Omission of section* 3, *Punjab Act XXII of* 1950.—Section 3 of the Principal Act shall be omitted."

New Section 4A

6. That after section 4, the following new section shall be inserted, namely:—

"4A. *Omission of section* 4, *Punjab Act XXII of* 1950.—Section 4 of the Principal Act shall be omitted."

Section 6

7. That section 6 be omitted.

Section 10

8. That section 10 be omitted.

9. That in section 10, the proposed new section 12A be omitted.

10. That in section 10, the proposed new section 12B be omitted.

11. That in section 10, for sub-sections (2), (3), (4), (5) and (6) of the proposed new section 12B, the following be substituted, namely:—

"(2) A tenant desirous of purchasing land under sub-section (1) shall make an application in writing to the Collector and the Collector shall take proceedings to acquire the land as if the land was acquired for a public purpose and the provisions of the Land Acquisition Act (Act I of 1894) shall apply to the proceedings."

12. That in section 10, the proposed new section 12C be omitted."

पंडित ठाकुर दास भार्गव : जनाब, आप की इजाज़त से मैं इस सारे को पढ़ना नहीं चाहता क्योंकि यह बहुत लम्बा है। चुनाचे जितने माडिफ़िकेशन्स तजवीज़ हुए हैं उन सब के बारे में मैं एक ही मोशन करना चाहता हूं कि इस ऐक्ट के बारे में यह सब के सब कंसीडर (consider) कर लिये जायें।

Mr. Speaker: Each Resolution has to be taken separately because each of them consists of a large number of amendments and there are separate Acts.

Pandit Thakur Das Bhargava: I am submitting not in regard to other Acts but I am only confining this Resolution to the one Act, that is the Punjab Tenants (Security of Tenure) Amendment Act, and I felt that all the amendments may be taken together so that they may all be considered together in regard to one Act.

Mr. Speaker: Yes.

पंडित ठाकुर दास भार्गव : इस के बारे में जनाब की इजाज़त से पेशतर इस के कि ऐमेन्डमेन्टस के बारे में कुछ अर्ज़ करूं, मैं मुख़तसरन् एक दीबाचे के तौर पर सारे ऐक्ट के बारे में अर्ज़ करना चाहता हूं कि यह ऐक्ट क्या है, जिसे ऐमेन्ड किया गया है और मैं क्या तरामीम चाहता हूं और किन वजूहात पर। लेकिन सब से अव्वल मैं जो अर्ज़ करना चाहता हूं वह यह है कि जनाब प्रैज़ीडन्ट साहब ने अपने ऐड्रेस (Address) में यह फ़रमाया था कि इस हाउस में अब की कोई कंट्रोवर्शल (controversial) चीज़ नहीं आयगी, बल्कि महज़ नान-कंट्रोवर्शल मामले सामने आयेंगे। लेकिन मुझे बड़े अफ़सोस के साथ कहना पड़ता है कि शायद सारे पंजाब में कोई भी ऐसा कंट्रोवर्शल बिल आज तक पास नहीं हुआ है जैसा कि यह बिल आज हाउस के सामने है। जब मैं इन बिलों के बारे में अर्ज़ करूंगा कि उन का मंशा क्या है और उन में क्या तबदीलियां हो रही हैं तो हाउस महसूस करेगा कि शायद इस हाउस में इतने दक़ीक़ मसले, इतने मुश्किल मसले, आज तक पेश नहीं हुए होंगे। मैं चाहता था कि यह मामला इस सेशन में न आये। जनाब वाला को याद होगा कि जब हम ने सन् १९५१ में यह ऐक्ट पेश किया डेलीगेशन आफ़ पावर्स (delegation of powers) का तो हाउस में बहुत लम्बी चौड़ी बहस हुई थी और यह तय किया गया था कि इस तरह के अख़्तियारात प्रेज़ीडेंट साहब को न दिये जा, लेयिकन ताहम गवर्नमेन्ट के इसरार पर हम ने एक तरमीम पास की कि प्रेज़ीडेन्ट साहब जब ऐक्ट पास कर दें तो पार्लियामेन्ट उस में माडिफ़िकेशन कर सके। मैं इस के ख़िलाफ़ था क्योंकि मैं जानता था कि यह बड़ी मुश्किल चीज़ है कि प्रेज़ीडेन्ट साहब एक ऐक्ट पास कर दें उस के बाद हम कोई माडिफ़िकेशन्स पेश करें। जनाब के रूबरू यह मसला पेश है, लेकिन हम क्या देखते हैं कि सारे पंजाब में न इस चीज़ को पेश किया गया न इस

[पंडित ठाकुर दास भार्गव]

पर बहस हुई न जिन के मुताल्लिक यह बिल है उन को कोई मौका मिला कि वह अपनी ज़बान से यह बतला सकते कि इस में क्या खूबियां और क्या खराबियां हैं। किसी को भी मौका नहीं मिला। और आज सारे हमारे पंजाब को नज़रअन्दाज़ कर के एक दम एक बिल प्रेज़ीडेन्ट साहब न नाफ़िज कर दिया। अब इस के बाद हमारी यह ज़िम्मेदारी बन जाती है कि इस के नुकायस बतलायें और यह दिखायें कि यह किस तरह हानिकारक है। अब ऐसा दिखाना हमारा ज़िम्मा है, हालांकि बिल को जस्टिफ़ाई (justify) करने का फ़र्ज़ गवर्नमेन्ट का है। वह क्यों ऐसा करते हैं कि इस का सारे का सारा बर्डेन (burden) दूसरी तरफ़ आ जाता है। आज एक ऐसा लेजिस्लेशन हो रहा है जो लेजिस्लेशन के आम उसूलों के बिल्कुल बर्खिलाफ़ है। कभी यह देखने में नहीं आया कि गवर्नमेन्ट अपनी चीज़ को जस्टिफ़ाई न करे और अपोज़ीशन (Opposition) से कहे कि वह इस की ग़लतियों को बतलाये। फिर लुत्फ़ यह है कि जो कार्यवाही की जा रही है वह बिल्कुल बेसुद है, इल कंसीडर्ड (ill considered) है। न मालूम गवर्नमेंट के आदमियों का दिमाग़ किस तरह काम किया करता है। सिर्फ़ उन के ही कहने से ही यह सब नहीं होना चाहिये था। जनाब, जो यह बिल है जिस पर हम बहस कर रहे हैं उस से किसी भी शख्स को फ़ायदा पहुंचने वाला नहीं है बल्कि उस से नुक़सान ही पहुंचने का इम्कान है। ४ नवम्बर, १९५० को जब पंजाब एसेम्बली ने ऐक्ट पास किया तो उस समय वहां कांग्रेस पार्टी का राज्य था। कांग्रेस पार्टी के जो कि मेजारिटी (majority) में थी, उस के कहने से वह एक्ट पास हुआ। ४ नवम्बर, १९५० के बाद अब यह प्रज़ीडेन्ट्स ऐक्ट हमारे सामने आता है। ४ नवम्बर, १९५० वाले ऐक्ट के अन्दर जो आम उसूल थे वह ऐसे थे जो हमारी कांग्रेस पार्टी ने और देश ने आम तौर पर कबूल कर लिये हैं और मैं उन उसूलों के खिलाफ़ एक लफ़्ज़ भी अर्ज़ नहीं करना चाहता। उस बिल का नाम था पंजाब टेनेन्ट्स सिक्योरिटी आफ़ टिन्योर ऐक्ट, १९५०। जनाब, उस की जो मोटी मोटी बातें थीं वह यह थीं कि जो टेनेन्ट्स पंजाब के हैं उन को सिक्योरिटी दी जाय और उन के टिन्योर का पीरियड (period) चार सालों तक का कर दिया जाय। १६ जून, १९५० से १६ जून, १९५४ तक किसी टिनेन्ट को आरबिट्रेरिली (arbitrarily) न निकाला जाय। सन् १८८७ का टेनेन्सी ऐक्ट जब नाफ़िज हुआ तो उस की रू से बिला वजूहात के टिनेन्टस को उन को टिनन्सी से निकाला जा सकता था। टिनेन्ट की कोई ग़लती न होते हुए भी लैंडलार्ड (landlord) की मर्ज़ी थी उस को रक्खे या न रक्खे। कोई वजूहात देने की ज़रूरत न थी। जब कांग्रेस आई तो उस ने यह सन् १९५० का बिल पास किया। इस गवर्नमेन्ट की पालिसी यह थी कि हर एक आदमी ज़मीन का मालिक है और टेनेन्सी के हक़ूक बराय नाम थे। इस में कोई शक नहीं कि टेनेन्सी बिल के खिलाफ़ यह शिकायत लोगों की थी कि बिला किसी वजूहात के टेनेन्ट की चाहे वह रेन्ट (rent) भी अदा करता रहे, तो भी उस को निकाल दिया जाय। इसी वजह से यह ऐक्ट पास हुआ, और कांग्रेस की पालिसी थी कि टेनेन्ट्स को सिक्योरिटी दी जाय, और यह तय किया गया कि चार बरस के वास्ते अगर टेनेन्ट लगान देता रहे और वह शरायत पूरी करता

रहे, जो उस के ज़मींदारों ने कानूनन करार दी हैं, तो उस को निकाला नहीं जा सकता। इस बिल के अन्दर जो चीज़ रक्खी गई उस से मैं आज भी सहमत हूं और हर एक आदमी सहमत होगा कि सिक्योरिटी टेनेन्ट्स को दी जाय। अगर कोई फ़ायदा कांग्रेस रूल से आया तो यह उस का एक नमूना है। इस के अलावा जो दूसरी चीज़ करार दी गई वह यह थी कि १०० स्टैन्डर्ड एकड़ या जहां ज़मीन स्टैन्डर्ड में न आ सके वह दो सौ एकड़ तक का मेयार करार दिया गया कि हर एक आदमी इतने एकड़ तक अपने कल्टिवेशन (cultivation) के लिये ज़मीन रख सकता है। इस के अलवा तीसरी चीज़ यह थी कि लगान के बारे में यह करार दिया गया कि जो एग्रीमेन्ट पार्टीज़ में हो उस के मुताबिक लगान अदा किया जायगा। अगर कोई एग्रीमेन्ट न हुआ हो तो उस इलाके में जो कस्टमरी रेन्ट हो वह दिया जायगा। इस के अलावा जो खास चीज़ जनाब की तवज्जह के काबिल है और जो सन् १९५० के ऐक्ट में करार दी गई थी वह यह थी कि कोई disposition by operation of law is will of landlord उस के टेनेन्ट के रहते टेनेन्सी का नहीं हो सकेगा, सिवा एक सूरत में जब कि वह प्रापर्टी का बेचा जाना मतलब हो। टेनेन्सी जो सेल में शामिल हो उस के सेल किये जाने या ट्रान्सफ़र (transfer) किये जाने के बाद, अगर टेनेन्ट के स्टेट्स (status) को कबूल न किया जाय तो उस को अख़्तयार दिया गया कि वह प्री-एम्पट (pre-empt) कर ले उस ज़मीन को भी जो उस की टेनेन्सी में हो। और प्री-एम्पट कर के वह उस जमीन पर कब्ज़ा रख सके। यह एक नई चीज है जो कि डिसपोज़ीशन आफ़ लैंड (disposition of land) के भी खिलाफ़ है। मैं अर्ज़ करूंगा कि इस में और जो इस किस्म के कवानीन हिन्दुस्तान के और हिस्सों में बनाये गये हैं उन में बड़ा फ़र्क है। वह यह है कि यू० पी० और दूसरी जगहों पर जहां भी टिनन्सी की सिक्योरिटी का सवाल आया वहां उन्हों ने कोई तमीज़ लैंडलार्ड के अमीर टिनेन्ट और गरीब लैंडलार्ड के टिनेन्ट में नहीं की बल्कि यह कायदा बनाया गया कि जो भी टिनेन्ट हो और किसी भी ज़मीन का टिनन्ट हो उस को सिक्योर कर दिया गया। चुनांचे वह ख्वाह किसी अमीर लैंडलार्ड का टिनेन्ट हो या ग़रीब लैंडलार्ड का टिनेन्ट हो उस को लाइफ़ टिनेन्सी दी गई और कहीं पर कम अरसे के वास्ते भी दी गई लेकिन यह शक्ल नहीं थी कि ऐसे लैंडलार्ड के वास्ते ही यह करार दिया गया हो जो कि १०० स्टैंडर्ड एकड़ या दो सौ एकड़ का मालिक हो। बल्कि जहां भी किसी की टिनेन्सी थी उस को रियायत दी गई कि वह सिक्योर हो। यहां पंजाब में यह तमीज़ रवा रखी गई है जिस की रू से ऐसे आदमियों पर ही असर हुआ जो एसे लेंडलार्ड्स के टिनेन्ट थे जिन के पास कि १०० स्टैंडर्ड एकड़ या दो सौ एकड़ से ज़्यादा ज़मीन थी। मैं ने जो तरमीम पेश की है वह तरमीम उस उसूल पर नहीं थी जो कि पहले से कायम था बल्कि उस पर थी जो कि प्रेज़ीडन्ट साहब के ऐक्ट में पास किया गया। यह ऐक्ट २४ दिसम्बर, १९५१ को पास किया गया। जनाब वाला मुलाहिज़ा फ़रमायेंगे कि एक और ऐक्ट भी पंजाब के मुताल्लिक हाउस के सामने पेश है। जब वह ऐक्ट सामने आयेगा तो उस पर भी अपनी तरमीमात का ज़िक्र करूंगा। लेकिन यह सिक्योरिटी का बिल और दूसरा बैटरमेंट बिल

[पंडित ठाकुर दास भार्गव]

(Betterment Bill) एक दूसरे से मुखतलिफ़ है यह मैं हाउस की तवज्जह में लाना चाहता हूं। यह जो टिनेन्सी की सिक्योरिटी का ऐक्ट है इस को नाफ़िज किया गया २४ दिसम्बर को जब कि इलेक्शन जारी हुए २६ दिसम्बर से और २ जनवरी से। यानी इलेक्शन शुरू होने से दो रोज़ पहले इसे नाफ़िज किया गया। और बैटरमेंट का बिल जिस के अन्दर कि लोगों से कोई चीज़ ली जाने वाली थी, जिस में लोगों से फ़ीस चार्ज करने का सवाल था, वह जब इलेक्शन खत्म हो चुका तो १८ जनवरी को नाफिज किया गया। मैं यह अदब से अर्ज़ करूंगा कि मैं यह कहना चाहता हूं और मैं इस पर यकीन रखता हूं कि कोई भी ऐक्ट और कोई भी बिल इलेक्शन परपज़ेज़ (election purposes) के वास्ते जारी नहीं होना चाहिये और जारी नहीं होना चाहिये था। चुनाचे जब पंजाब के मेम्बरों को बुला कर इन बिलों के बारे में उन की राय ली गई थी तो मैं ने साफ़ कह दिया था कि अगर्चे मैं कांग्रेस का केंडीडेट (candidate) हूं और कांग्रेस की अथोरिटी (authority) और प्रेस्टिज (prestige) का पूरा ख्याल रखता हूं और चाहता हूं कि यह जितना भी बढ़ सके बढ़ाया जाय लेकिन मैं यह नहीं चाहता कि हमारे कोई मुखालिफ़ यह कह सकें कि हम ने इलेक्शन के मौके पर ऐसा ऐक्ट नाफ़िज करने की कोशिश की कि जिस के वास्ते यह कहा जा सके कि इस से कांग्रेस वालों को फ़ौकियत हासिल होगी। इस लिये मैं ने कहा था कि इस को अभी नहीं जारी करना चाहिये, लेकिन इस को जारी कर दिया गया। एक को २४ दिसम्बर को इलेक्शन से दो रोज़ पहले नाफ़िज किया गया और दूसरे को इलेक्शन खत्म होने बाद। इस से हमारे मुखालिफ़ों को यह कहने का मौका मिला कि कांग्रेस गवर्नमेन्ट ने इन बिलों को नाफ़िज कर के नाजायज़ फ़ायदा उठाया लेकिन मैं अदब से अर्ज़ करना चाहता हूं कि आज यह सवाल जेर गौर नहीं है। आज हमारे सामने यह सवाल है कि यह प्रेज़ीडेन्ट साहब का ऐक्ट मुनासिब है या नहीं। और इस ऐक्ट को सपोर्ट (support) करना चाहिये या इस का माडिफ़िकेशन करना चाहिये। इस में पहले ऐक्ट से कुछ फ़र्क है। एक तो चार साल के बजाये इस में पांच साल कर दिया गया है। मुझे इस के साथ पूरा इत्तिफ़ाक है। मगर अभी इस से किसी का कोई फायदा नहीं होने वाला है। इस का असर तो सन् १९५३ में पड़ेगा। तो इस को २४ दिसम्बर को नाफ़िज करने की क्या ज़रूरत थी। दूसरी तरमीम जो है वह बहुत माकूल तरमीम है। हम दिल से चाहते हैं कि टिनेन्ट को फ़ायदा हो और इस से बढ़ कर तो कोई बैहतर तरमीम नहीं हो सकती कि एक चीज़ मुकर्रर कर दी जाये कि इतने से ज्यादा वसूल नहीं किया जायगा। मैं जानता हूं कि अभी तक यह लाज़ (laws) अरसे से जारी है कि हर एक को हक है कि वह अपनी ज़मीन का चाहे कितना ही लगान वसूल करे। आज तक यह उसूल माना गया है लेकिन अब हम इस उसूल को खैरबाद कर रहे हैं। इस बिल में कहा गया है कि कोई लैंडलार्ड अपने गुज़ारे से एक तिहाई से ज्यादा लगान नहीं वसूल कर सकेगा। यह एक नई तरमीम की गई कि एक तिहाई पैदावार से ज्यादा कोई लैंडलार्ड नहीं वसूल कर सकेगा और यह निहायत माकूल तजवीज़ है। इस वक़्त पंजाब में बहुत सी ज़मीनें ऐसी हैं जिन का

निस्फ़ वसूल किया जाता है । कई इलाकों में निस्फ़ क्राप (crop) वसूल की जाती है । अब इस बिल में यह मुकर्रर कर दिया गया है कि एक तिहाई से ज्यादा न वसूल किया जाय । मगर जो मेरा एतराज़ है वह यह है कि इस से सिर्फ़ उन्हीं लोगों को फ़ायदा होगा जो ऐसे लैंडलार्ड के मुज़ारे हैं जिन के पास सौ स्टैण्डर्ड एकड़ से ज्यादा ज़मीन है । उन ग़रीबों को जो छोटे लैंडलार्डस के टिनेन्टस हैं इस से कोई फ़ायदा नहीं पहुंचेगा । इस से तो उन्हीं को फ़ायदा होगा जो बड़े जमींदारों के टिनेन्ट्स हैं । बड़े बड़े ज़मींदार तो अपनी ज़मीनों पर नहीं जाते हैं इस लिये उन के मुज़ारों के ऊपर इतना ज़ुल्म जुनहीं होता है । ज़ुल्म तो होता है उन मुज़ारों पर जो छोटे छोटे लैंडलार्डस के मुज़ारे हैं जो कि वहीं ज़मीन के पास रहते हैं और उन से निस्फ़ ले लेते हैं और उन पर पूरी सख़्ती करते हैं । उन मुज़ारों को इस से कोई फ़ायदा नहीं पहुंचेगा । जो गरीब लैंडलार्डस के टिनेन्ट हैं उन पर जो मज़ालिम होते हैं उन का कोई इलाज इस ऐक्ट में नहीं रखा गया है । और यह इस ऐक्ट का सब से खराब फ़ीचर (feature) है । सारे हिन्दुस्तान में जो कवानीन बनाये गये हैं उन के ज़रिये से गरीब से गरीब मुज़ारों को फ़ायदा पहुंचता है लेकिन पंजाब के इस ऐक्ट में ऐसा नहीं होता । अब इस में पचास एकड़ कर दिया गया है । इस लिये पचास एकड़ से कम ज़मीन वाले लैंडलार्डस के टिनेन्ट्स को इस से कोई रिलीफ़ नहीं होगा । मैं अर्ज़ करना चाहता हूं कि गरीब मुज़ारों की तरफ़ ज्यादा तवज्जह की जानी चाहिये । इस ऐक्ट में उस के लिये कुछ नहीं किया गया है ।

इस के अलावा जो तीसरी तरमीम की जाने वाली है वह यह है कि सौ एकड़ और दो सौ एकड़ की जगह पचास और सौ एकड़ किया जायगा । जहां तक पचास एकड़ का सवाल है सन् १९५० में पंजाब की लैजिस्लेटिव असेम्बली ने यह मुनासिब समझा था कि यह लिमिट सौ एकड़ और दो सौ एकड़ की रखी जाय । उस वक़्त के बाद मुझे मालूम नहीं कि क्या वाकयात रूनुमा हुए । क्या तबदीलियां पंजाब के अन्दर आ गईं कि सौ और दो सौ एकड़ की जगह पचास और सौ एकड़ तबदील किया जाता है । अगर वहां की लेजिस्लेटिव असेम्बली इस को करती तो ज्यादा मुनासिब होता । मैं समझता हूं कि यह मेम्बरान को बखूबी रोशन है कि पंजाब टिनेन्सी ऐक्ट के मातहत बेदखलियां किस तरह हुई हैं । १५ नवम्बर और १५ जनवरी तक नोटिस जारी होंगे और १ मई से १५ जून तक बेदखलियां हो सकती हैं । इस के पहले नहीं हो सकतीं । अब मार्च या अप्रैल के महीने में नया हाउस पंजाब में आयेगा उस को यह अख़्तियार होगा कि वह इस ऐक्ट को कायम रखे या खारिज कर दे, इस को माने या न माने । उस वक़्त तक के वास्ते भी प्रेज़ीडेन्ट साहब और हमारी गवर्नमेन्ट ने इन्तज़ार नहीं किया । जनाब वाला को बखूबी मालूम है कि हमारे कांस्टीट्यूशन की दफ़ा ३५७ यह करार देती है कि प्रोकेलेमेशन (proclamation) के एक साल बाद ही सारे कानून लैप्स (lapse) हो जायेंगे जब तक कि यह री-इनेक्ट (re-enact) न किये जायें । इन को रिपील (repeal) करने की ज़रूरत नहीं होगी । मैं नहीं जानता कि दफ़ा ३५७ के अन्दर यह प्राविज़न होते हुए भी क्या ज़रूरत लाहक हुई कि फ़ौरन ही इन को तबदील कर दिया जाय हालांकि

[पंडित ठाकुर दास भार्गव]

उन के निफ़ाज से किसी शख्स को कोई फ़ायदा नहीं होता है । मैं नहीं समझता कि क्यों यह सोचा गया कि बग़ैर पब्लिक ओपिनियन को जाने पंजाब पर यह ऐक्ट लादा जा रहा है ।

यह हमारी बदकिस्मती है कि हमारी गवर्नमेन्ट आफ़ इंडिया ने भी इस चीज़ को नहीं देखा और आगे मजबूर हो कर सरंडर (surrender) कर दिया । यह नहीं देखा कि इस से कोई फ़ायदा नहीं है कि इस हाउस का वक़्त ज़ाया किया जाय और इस हाउस में इन चीज़ों को लाया जाय जब कि पंजाब की गवर्नमेन्ट वहां पर अभी मार्च या अप्रैल में ही नई बनने वाली है । मैं नहीं समझता कि प्रेज़ीडेन्ट साहब की कौन ज़रूरत थी कि इस पर गवर्नमेन्ट आफ़ इंडिया की मंजूरी देते । शायद इस का जवाब यह दिया जाय कि अगर ऐसा ही होने वाला है तो फिर मैं हाउस का वक़्त क्यों ले रहा हूं और इस पर बहस कर रहा हूं ।

डाक्टर काटजू : यही मैं कहने जा रहा था ।

पंडित ठाकुर दास भार्गव : आप का यह आबजैक्शन (objection) ज़रूर दुरुस्त है । लेकिन मैं यह कहना चाहता हूं कि वहां जब यह मामला पेश होगा तो लोग यह कहेंगे कि प्रेज़ीडेन्ट साहब ने इस को ज़रूरी समझा और नाफ़िज कर दिया । इस पर हमारे होम मिनिस्टर साहब की मोहर लगी है जो हिन्दुस्तान के बेहतरीन और लायक वकील हैं, इस पर गवर्नमेन्ट आफ़ इंडिया की मोहर लगी है इस लिये मैं कहना चाहता हूं कि आप इस पर से अपनी गवर्नमेन्ट आफ़ इंडिया की मोहर हटा लीजिये । और मैं जानता हूं कि पंजाब जो अपने हालात से बखूबी वाकिफ है, ऐसा कानून पास करेगा जो ठीक और मुनासिब होगा और ऐसा कानून कभी नहीं लावेगा जो दर असल फंडामेन्टल राइट्स के खिलाफ़ है और जो दुनिया के तमाम उसूलों के खिलाफ़ है जिस का मैं आगे चल कर जिक्र करने वाला हूं ।

जनाब वाला, तीसरी बात जिस की बिना पर मुझे इस बिल पर एतराज़ है वह मेन बात है जिस के ऊपर मुझे इतना दुःख हुआ है । मैं समझता हूं कि यह ग़लत तरमीम की जा रही है । इस के अन्दर नया सैक्शन १०-ए ऐड (add) किया गया है और उस के तीन टुकड़े हैं, १२-ए, १२-बी, और १२-सी । जनाब वाला, १२-ए यह है कि अगर कोई टेनेंट चार वर्ष से किसी ज़मीन पर कंटीन्युअस आकुपेशन (continuous occupation) रखता हो तो उस टेनेंट को यह अख्तियार दिया गया है कि उस को प्रीएम्पटर के जुमले में शामिल कर लिया गया है । यानी, अगर कोई शख्स २०० एकड़ ज़मीन किसी वैंडी (vandee) के पास एक लाख रुपये में बेचे और उस में से तीन बीघे या दो बीघे या एक बीघे पर एक टिनेन्ट हो तो उस एक, दो या तीन बीघे वाले चार साल के टिनेन्ट को यह अख्तियार है कि उस एक लाख के सेल की प्रीऐम्पट कर ले । और यही नहीं है, फ़िलहाल प्रीएम्पशन का जो कानून है उस के खिलाफ़ मुकदमे हाई कोर्ट में मौजूद हैं । हाई कोर्ट के सामने छः मुकद्दमात पेश हैं जिन में सारे प्रीऐम्पशन ऐक्ट की क्वश्चन किया गया ह और कहा

गया है कि यह सारा प्रीऐम्पशन का कानून फंडामैंटल राइट्स के बरखिलाफ है । चुनांचे छः मुकद्दमात अब हाई कोर्ट के अन्दर मौजूद हैं और यह सवाल वहां फुल बैंच (full bench) को रैफर (refer) किया गया है । वहां यह सवाल तय किया जायगा कि आया प्रीऐम्पशन का जो कानून पंजाब में है यह फंडामैंटल राइट्स के मुताबिक है या नहीं । अब जब कि वह छः मुकद्दमात हाई कोर्ट के सामने पेश हैं उस वक्त हमारी इंडिया गवर्नमेन्ट उस ऐक्ट को बैक डोर (back door) से बटरेस (buttress) करने जा रही है, मैं समझता हूं कि यह मुनासिब नहीं था, जब तक कि फंडामैंटल राइट्स का फैसला वहां नहीं हो जाता ।

जनाब वाला, आप इस पर ग़ौर करें कि एक आदमी जो सिर्फ चार साल से ही आया है अगर एक लाख रुपये की जमीन वै की जाती है तो उस चार साल से आये हुए को यह हक है । हक़ इतना ही नहीं है कि जितनी उस को टेनेन्सी है उस को ही प्रीऐम्पट कर ले, बल्कि वह सारे सेल का जो एक लाख रुपये का हुआ है, २०० एकड़ का हुआ है, उस को हक़ दिया जाता है कि वह सारे को प्रीऐम्पट कर ले । और हक भी किस तरह का है कि, बेटे को, भाई को, ज्वांइट ओनर (joint owner) को, को-पार्टनर (co-partner) को, इन सब के ऊपर उस टिनेन्ट को हक दिया जाता है । पंजाब में आज के अन्दर प्रीऐम्पशन ऐक्ट की रू से रिश्तेदारान को पहले हक़ है शुफा का, कि अगर कोई किसी जमीन को वै करता है तो लड़के को, भाई को और वारिसान को हक़ है कि शुफ़ा कर ले ज्वांइट औनर को भी प्रीऐम्पशन का हक़ है, बिसवेदार व ओक्यूपेन्सी टिनेन्ट को भी है । लेकिन अब इन सब के ऊपर टिनेन्ट को हक़ दिया जाता है कि वह सारे को प्रीऐम्ट कर ले । आज इन सब के ऊपर फ़ौकियत दे कर इस चार साल के टिनेन्ट को यह हक दिया जाता है । इन सब के राइट्स तो अलग, और उस को यह हक़ है कि गो वह दो ही बीघे का टिनेन्ट हो, लेकिन वह सारी जमीन जितनी भी है सारी की सारी को शुफ़ा कर सके । मैं अदब से अर्ज करूंगा कि यह क़ानून इस किस्म का है कि जिस को न अक्ल मानती है और न फंडामैंटल राइट्स मानते हैं और न इन्साफ पसन्द करने वाला कोई शख्स इस को एक मिनट के लिये भी मान सकता है ।

बाबू रामनारायण सिंह : ठीक है ।

पंडित ठाकुर दास भार्गव : अब आप आगे चलिये । इस का जो स्टेटमेन्ट आफ आबजैक्ट्स एंड रीजन्स है, इस का मैं एक फिकरा पढ़ कर सुनाता हूं जिस की रू से मालूम होता है कि प्रेजीडेन्ट साहब ने जो एक्ट नाफ़िज फरमाया है उस का मंशा भी ऐसा नहीं था कि इस किस्म का हक़ किसी टिनेन्ट को दिया जाय । चुनांचे इस के अन्दर जो रीजन्स दिये हुए हैं उस के अन्दर यह अल्फाज दर्ज हैं :

> "The present Punjab Tenants Amendment Act enhances the minimum period of a tenancy from four to five years. It attempts to fix the maximum rent of a tenant-at-will at one-third the crop of the land or its equivalent in value. It enables a tenant who has been in continuous possession of his land for a period of four years to pre-empt any sale of his tenancy."

"आफ हिज टिनेन्सी" से मुराद यह है कि वह सिर्फ अपनी टिनन्सी को ही प्रीऐम्पट कर सकता है । लेकिन जो अल्फाज

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यहां इस दफा १२ में आये हैं वहां यह अल्फाज़ नहीं हैं। उस की रू से दो या एक बीघे का टिनेन्ट २०० एकड़ की जमीन को प्रीऐम्प्ट कर सकता है जो हरगिज़ प्रैजीडेन्ट साहब का मंशा नहीं मालूम होता । मालूम ऐसा होता है, यहां मैं अपने प्राविंस की थोड़ी सी बुराई करता हूं, कि हमारे यहां अंग्रेजी के अच्छे ड्राफ्ट्समेन (draftsman) नहीं हैं और उन्होंने यहां आ कर ऐसी चीज़ दे दी है जिस को किसी ने देखा नहीं कि इस का क्या मतलब निकलेगा । तो, जनाब वाला, इस के अन्दर मैं अर्ज़ करूंगा कि जो एक बड़ा भारी नुक्स है वह यह है ।

अब इस के आगे मैं एक दूसरे नुक्स के बारे में जनाब वाला की खिदमत में अर्ज़ करूंगा । लेकिन मैं शुरू में ही कह दूं कि मैं इस उसूल को नहीं मानता, क्यों कि इस ऐक्ट का नाम है, दी पंजाब टनेंट्स (सिक्योरिटी आफ टिन्योर्स) अमेंडमेंट ऐक्ट, १९५१ और इस के प्रीएबुल (preamble) और लांग टाइटल (long-title) में यह दर्ज है :

"An Act to amend the Punjab Tenants (Security of Tenure) Act, 1950 for affording further security of tenure to tenants".

'फर्दर सिक्योरिटी आफ टिन्योर' देने के माने तो मैं समझता हूं, चार से पांच वर्ष कर दीजिये । इस को भी मैं मानने के लिये तैयार हूं कि आप उस के एग्रीमेंट के बग़ैर भी उस को मजबूर कर दीजिये कि वह अपनी तिहाई से ज्यादा के वास्ते एग्रीमेंट भी न कर सके । मैं यह भी मानने के लिये तैयार हूं । लेकिन मैं यह कभी नहीं मान सकता कि सवाल तो हो उस की सिक्योरिटी आफ टिन्योर का और उस को हक़ दिया जाय कि वह उस की टिनेन्सी के बाहर की ज़मीन को भी प्रीऐम्प्ट कर ले । उसने यह कभी नहीं चाहा कि औरों की भी ज़मीन खरीदे, जो औरों ने खरीदी है उस को भी शुफा कर ले । मैं यह भी कहूंगा कि यह चीज़ इस तरह अमेंडिंग ऐक्ट में आ ही नहीं सकती, क्योंकि यह उस के स्कोप (scope) से बाहर है । यह बिल सिक्योरिटी आफ टिन्योर की मंशा से आया है, इसलिये मैं अर्ज़ करना चाहता हूं कि यह मिसकंसीव्ड (misconceived) है और इस का यह मंशा हो ही नहीं सकता था ।

दूसरी बात जो मैं अर्ज़ करना चाहता हूं वह १२ बी है । और वह ऐसी चीज़ है जो एक तरह से रिवोल्यूशनरी (revolutionary) है और हमारी सारी इकोनिमी को चेंज करती है । आज तक टिनन्सी ऐक्ट सन् १८८७ में एक क्लाज़ दर्ज थी जिस पर अमल किया जाता रहा है कि कितने ही वर्ष तक कोई टिनेन्ट काबिज़ रहे, ज़मीन का वह मालिक नहीं बन सकता, क्योंकि उस का एडवर्स पजशन (adverse possession) नहीं होता, उस का पजेशन एक परमिसिब पजेशन (permissive possession) है । लेकिन आज इस १२ बी की रू से एक नया क़ानून नाफिज़ किया जा रहा है । सारे हिन्दुस्तान भर में, जहां तक मुझे इल्म है, इस क़िस्म का क़ानून कहीं नहीं है । अभी तक तो बात थी प्रीऐप्शन की कि अगर कोई शख्स किसी को बेचे तो वह उसे खरीद ले । लेकिन अब यहां पर यह किया जा रहा है कि अगर किसी शख्स का किसी ज़मीन पर १२ साल तक कंटीन्यूअंस पजेशन हो तो उस को हक़ है कि वह मालिक को मजबूर कर दे और उस ज़मीन की

मिल्कियत हासिल कर ले, महज़ इस वास्ते कि उस ने १२ साल तक उसे रहने दिया और वह उस ज़मीन पर क़ाबिज़ रहा, और मालिक कुछ नहीं बोल सकता। मालिक यह नहीं कह सकता कि आप मेरी ज़मीन क्यों लेते हो, मैं ने तो आप के साथ इनायत की है, मुझे हक़ था कि मैं बिना किसी वजह के बेदखल कर सकता था, लेकिन मैं ने आप के साथ शराफ़त की और आप को बेदखल नहीं किया। और जो शरीफ ओनर हैं उन की ज्यादा मुश्किल है। मैं ऐसे खानदानों को जानता हूं कि दो दो पुश्तों से वही मालिक चले आते हैं, वही गुजारे चले आते ह, उन के ताल्लुकात अच्छे हैं। आज उन के खिलाफ़ यह क़ानून पास किया जाता है कि चूंकि उन्होंने १२ बरस तक इन मुजारों को बेदखल नहीं किया, इन के साथ सख्ती नहीं की, इसलिये अब उन के ऊपर यह बोझ लादा जा रहा है कि उन की ज़मीन की मिल्कियत उन के हक़ से निकाल कर इन मुज़ारों को दी जा रही है। यह, जनाब वाला, बिल्कुल इंसाफ के खिलाफ़ है, और इस के मुताल्लिक आगे चल कर जब बहस होगी तो मैं कहूंगा। जनाब वाला, आज तक हम जहां कहीं बहस करते थे, तो अबालीशन आफ जमींदारी के बारे में करते थे और मैं अर्ज़ करना चाहता हूं कि मैं इस जमींदारी के अबालीशन के हक़ में हूं, क्योंकि मेरी राय है कि हम हिन्दुस्तान के सारे सवालात को हल नहीं कर सकते जब तक कि हम इस कानून को पास नहीं कर देते। साथ ही मैं नहीं चाहता कि ज़मींदारी के अबालीशन के लिये इतना ज्यादा मुआवजा दिया जाय कि जो स्टेट के लिये बर्दाश्त करना मुश्किल हो। चुनाचे मैं ने खुद कांस्टट्यूऐंट असेम्बली में ऐसी तरमीमें पेश की थीं कि जमींदारी अबालिश करने में, या पेजेंट प्रोप्राइटर्स (peasant proprietors) को मज़बूत करने के लिये, या इकानामिक होल्डिम्स (economic holdings) बनाने में, कंसालीडेशन आफ़ होल्डिंग का अगर कोई मामला हो तो वह कोर्ट में न जाय और लैजिस्लेचर खुद उस को तय कर दे। मैं अब भी इसी उसूल को मानता हूं।

लेकिन मैं यह नहीं मानता कि जब तक इस किस्म की प्लान्ड ऐकोनामी (planned economy) का फैसला स्टेट गवर्नमेन्ट नहीं करेगी और प्राइवेट आदमियों की ज़मीनें ज़बर्दस्ती उन से खींस कर दूसरे आदमियों को दे दी जायें बग़ैर उन की मर्जी के, तो यह चीज़ खिलाफ कानून होंगी और खिलाफ उसूल होगी, और हमारी डिक्लेयर्ड पालिसी के खिलाफ़ होगी। हम ने कांस्टीटयूशन की दफा ३१ के अन्दर प्रापर्टी के लिये पास किया, लेकिन उस के अन्दर करार दिया गया कि किसी शख्स को उस की प्रापर्टी से बग़ैर उस का उचित मुआविज़ा दिये डिप्राइव (deprive) नहीं किया जायगा। हम ने फर्स्ट कांस्टीटयूशनल अमेंडमेंट ऐक्ट पास किया जिस के अन्दर करार दिया गया कि प्रापर्टी सिर्फ़ पब्लिक परपोजेज (public purposes) के वास्ते हासिल की जायेगी और उस के अन्दर हमने इस तरह की हद रखी थी कि स्टेट लैजिस्लेचर के पास कर देने के बाद भी जब तक उस कानून पर प्रेजीडेंट साहब की असेंट (assent) नहीं होगी तब तक वह कानून तामील के काबिल नहीं होगा और वह क़ानून नाफिज़ नहीं हो सकेगा। चुनाचे मुझे याद है कि जब सिलेक्ट कमेटी में यह चीज़ आई तो मैं ने उस वक्त यह आवाज़ उठाई क्यों कि उस के अन्दर यह अलफाज थे कि जहां तक

[पंडित ठाकुर दास भार्गव]

ऐस्टेट (estate) का सवाल है टिनेन्सी एक्ट में ऐस्टेट की तारीफ में मामूली बिसवेदार उस के अन्दर आ जाते थे और छोटे से छोटा लैंड लार्ड भी उस की तारीफ़ में आता था । चुनाचे हाउस में ऐतराज़ उठाया गया और हमारे ऐतराज़ को मुनासिब समझ कर आनरेबुल मिनिस्टर डाक्टर अम्बेडकर साहब ने और हमारे प्राइम मिनिस्टर साहब ने खास तौर पर इस हाउस में यह अश्योरेंस (assurance) दिलाया कि ज़मीन और प्रापर्टी सिर्फ़ पब्लिक परपेज़ेज के वास्ते ऐक्वायर की जायगी और प्रेजीडेन्ट साहब की मंजूरी बिल की तामील के लिये ज़रूरी होगी । लेकिन मैं अदब से गुजारिश करना चाहता हूं कि यह जो ऐक्ट पास किया जा रहा है, इस में सरकार उस ज़मीन को पब्लिक परपज़ेज के वास्ते नहीं खरीद रही है बल्कि प्राइवेट आदमियों को खोंस कर दी जायेगी । इस क़ानून के जरिये एक आदमी को मजबूर किया जाय और बिना उस की मर्जी के उस की जमीन छीनने की कोशिश की जा रही है । कीमत के मुताल्लिक में आइन्दा जिक्र करूंगा । मैं जनाब की तवज्जह कांस्टीट्यूशन की दफा १९ की तरफ दिलाना चाहता हूं जिस के अन्दर हम ने फंडामेंटल राइट्स का बहुत ढिंढोरा पीटा है । और वह हमारे देश और सोसाइटी के वास्ते निहायत जरूरी हैं और हम ने हिन्दुस्तान के अन्दर इस कांस्टीटयूशन को नाफिज करते वक्त इन चीजों का खास खयाल रखा है और जिन फंडामैंटल राइट्स में एक राइट इस तरह से है :

"All citizens shall have the right to acquire, hold and dispose of property".

यह तीनों अल्फाज 'राइट टू एक्वायर लैंड' 'होल्ड एन्ड डिस्पोज आफ प्रापर्टी' में हर एक आदमी को उस को लेने का हक होगा । लेकिन प्रीऐम्पशन क्वेश्चन किया गया है जिस के मुताल्लिक मैं ने पहले अर्ज़ किया था हक शफा के बाबत छः मुकद्दमे फुल बेंच में चल रहे हैं । मेरी अदब से अर्ज है कि : "I cannot be said to have the right to hold property." मगर आज यह मजबूरी है कि एक हुक्म के मातहत सिर्फ इस बिना पर कि एक शख्स ने मेरे खिलाफ दरख्वास्त दी कि मेरा हक मिल्कियत हटा दिया। मैं अदब से अर्ज़ करूंगा कि यह जो फंडामेंटल राइट दफा १९ ए में दिये हुए हैं वह ऐक्सेप्शन (exception) जो इस में दिया हुआ है वह इस भारतीय कानून की दफा १९ के खिलाफ है ।

"Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or clauses either or for the protection of the interests of any Scheduled Tribe."

मैं निहायत अदब से अर्ज करना चाहता हूं कि इस एक्सेप्शन में किसी स्ट्रेच आफ ईमेजिनेशन (stretch of imagination) में भी यह कानून आता हुआ मुझे नजर नहीं आता । एक ऐसे आदमी को जिस का एक जमीन पर बारह साल का कब्जा हो, वह उस से खोंस कर किसी दूसरे प्राइवेट आदमी को दे दिया जाय । मेरी अदब से गुजारिश है कि दफा ३१ की रू से जब तक पब्लिक परपजेज के वास्ते जरूरी न हो किसी शख्स को यह हक हासिल नहीं होना चाहिये कि वह किसी दूसरे

शख्स को उस की प्रापर्टी से महरूम कर दे। यह जो नया प्रावीजन १२ बी है यह फंडामेंटल राइट्स के एकदम खिलाफ है और फंडामेंटल राइट्स की रू से यह सेक्शन १२ बी ऐसा नहीं है जिस को हम अपहोल्ड (uphold) कर सकें। मैं जनाब वाला की खिदमत में अर्ज करना चाहता हूं कि जहां तक क़ीमत का सवाल है एक अजीब क़ीमत का प्रोसीड्योर (procedure) इस में रक्खा गया है और मैं कहने पर मजबूर हूं कि शायद इस से ज्यादा निकम्मा प्रोसीड्योर कभी किसी के ध्यान में न आया होगा। इस में असिस्टेंट कलक्टर को अख्तियार दिया गया है कि एक शख्स के दरख्वास्त देते ही वह लैंडलार्ड और दूसरे सब इंटरेस्टेड परसन्स् को नोटिस दे कर और जांच पड़ताल कर के उस लैंड की क़ीमत मुकर्रर कर दे। सेक्शन १२ बी के अल्फाज़ यह हैं :

"after giving notice to the landlord and to all other persons interested in the land and after making such inquiry as he thinks fit, shall fix the value of the land."

मैं अदब से अर्ज करना चाहता हूं कि पंजाब वालों की ज़मीनों के साथ यह बिल्कुल एक नया और मुख्तलिफ तरीका बरतने की कोशिश की जा रही है। ५६ वर्ष से जो इस देश में क़ानून नाफिज है उस की रू से अगर किसी शख्स की ज़मीन ज़बर्दस्ती ली जाती थी तो पन्द्रह परसेंट उस को डिस्टर्बेंस आफ पज़ेशशन (disturbance of posseession) का मिलता था और ज़मीन ऐक्वायर करने के पहले उस की मार्केट वैल्यू (value) तय की जाती थी। मार्केट वैल्यू तय करने के वास्ते कलक्टर एक नोटिस जारी करता है और उस के बाद एक आर्डर आता है और उस में दोनों फरीक़ों को अख्तियार है कि अपने अपने सबूत पेश करें कि इस की मार्केट वैल्यू क्या होनी चाहिये, उस के बाद भी उस के अन्दर अपील होती है, फैसले के लिये कोर्ट में मामला जाता है और हाई-कोर्ट तक उस को ले जाया जा सकता है। लेकिन यहां पर तो फरीक़ को कोई हक़ नहीं है कि वह ज़पनी जबान से भी असिस्टेंट कलक्टर के फैसले के खिलाफ एक लफ्ज़ निकाल सके। जो उस की मर्ज़ी हो मार्केट वैल्यू मुकर्रर कर दे। और यह तो जैसा सन् सात में पुराने क़ानून के बाबत कहा गया था कि इस में न कोई दलील है, न वकील है और न अपील की गुंजाइश है और न रीज़न (reason) को दखल है, वही चीज़ मौजूदा क़ानून में भी नज़र आती है। और मैं समझता हूं कि इस तरह से किसी की ज़मीन छीन लेना इंसानियत के खिलाफ है और खसूसन् पंजाब के लोगों को अपनी ज़मीन से ज्यादा प्यार है, क्योंकि पंजाब के हालात सदियों से अनसरटेन (uncertain) रहे हैं और हर एक आदमी का ज़मीन के साथ उस का ऐफक्शन (effection) वाबस्ता है और वह उस से जुदा नहीं होना चाहता। पंजाबी हर एक तकलीफ को बर्दाश्त कर सकता है, लेकिन अपनी ज़मीन को अपने हाथ से नहीं जाने देना चाहता। और यह बहुत ज़रूरी है कि उस की ज़मीन छीनने से पहले उस की माकूल मार्केट वैल्यू क़ायम कराई जाय और अगर वह अदालत में अपील करना चाहे, तो उस की सुनवाई हो सके। यह किसी तरह जायज़ नहीं है कि एक ज़मींदार की ज़मीन का बग़ैर किसी अपील के एक तहसीलदार को यह अख्तियार हासिल हो कि वह उस के लाखों रुपये की जायदाद का जिस तरह चाहे फैसला कर दे। मैं अदब से अर्ज करना

[पंडित ठाकुर दास भार्गव]

चाहता हूं कि यह जो क़ानून है यह न सिर्फ फंडामेंटल राइट्स के खिलाफ है बल्कि उन उसूलों के भी खिलाफ है जो उस बिल में जिस को श्री गाडगिल ने कल या परसों इस हाउस के सामने पेश किया था दिये हुए हैं । उस के मातहत यूनियन के अन्दर इम्मूवेबुल प्रापर्टी (immovable property) को रीक्यूज़ीशन- (requisition) और एक्यूज़ीशन (acquisition) करने की बात है । उन्हों ने उस के लिये एक बिल पेश किया है ताकि वह इसी सेशन के अन्दर कानून बन सके । स्टेट गवर्नमेन्ट की बाबत यह क़रार दिया गया कि वह अगर यूनियन (Union) के वास्ते ज़मीनें ऐक्वायर करें तो उस के लिये कम्पेनशेसन देने के लिये बिल में तरीके बतलाये गये हैं जिन के बमुजिब कम्पनशेसन दिया जायेगा । इस बिल के अन्दर जो प्राविजन्स हैं मैं उन की तरफ तवज्जह दिलाना चाहता हूं कि गवर्नमेन्ट जब सारे देश भर की ज़मीनों को या किसी भी चीज़ को लेना चाहती है तो किस क़दर ऐहतियात बर्तती है और हर एक आदमी के साथ कितना इंसाफ करना चाहती है । इस बिल में दर्ज है कि फौरन एक आरबिट्रेटर (arbitrator) मुकर्रर किया जायगा जो मार्केट वैल्यू क़ायम कर के कम्पेनशेसन मुकर्रर करेगा । They will fix the values of the land. अपील का भी प्रावीज़न उस में दिया हुआ है । और बीसियों तरीके दिये हुए हैं । उस के लिये दफा आठ, नौ, दस और ग्यारह दी हुई है, जिस के मुताबिक़ वह अपनी जायदाद की पूरी और माक़ूल क़ीमत हासिल करे और अपने हक़ को हासिल करे । मैं पूछना चाहता हूं कि यूनियन के लिये जब ऐसा क़ानून बना है, तो पंजाब के लिये क्यों इस से मुख्तलिफ उसूल रखा गया है । और वहां जो उस की पुश्तैनी जायदाद है, वह उस से बिना मुआविज़ा दिये हुए जबर्दस्ती क्यों छीनी जाय ?

मुआवज़ा उस को पूरा न दिया जाय और उस तरीक़े से न दिया जाय जो कि उसका हक़ है, मैं अदब से अर्ज़ करूंगा कि यह क़ानून जो है वह इस किस्म का है जो एक मिनट को भी हाउस को पास नहीं करना चाहिये । मैं जनाब की तवज्जह दफा ८ की तरफ दिलाता हूं :

"(1) Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;"

मैं पूछना चाहता हूं कि अगर ज़मीन किसी को खरीदना है तो हम क़ीमत का खुद क्यों न फैसला कर लें । आप ने हुक्म दे दिया कि यह जमीन उस के हाथ से निकल जायेगी । वजूहात आप जानें, इन्साफ आप जानें । लेकिन इस वास्ते मैं भी जानना चाहता हूं कि मेरी जमीन है, अगर कोई ज्यादा पैसा दे कर मेरी जमीन लेना चाहता है तो इस में आप को क्या ऐतराज है । अगर इस मामले में कोई ऐग्रीमेंट नहीं होता तो क्या होगा देखिये :

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;"

मुझे अपना जज भी करने का अख्तयार नहीं है ।

"(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;"

जनाब वाला, एक किसी मुल्जिम को, किसी ऐसे शख्स को जिस की जायदाद जाने वाली है, उस को भ. अदालत के सामने पेश किया जाता है तो उस को यह भी कहने का, उस को अपनी ज़बान भी खोलने का हक़ नहीं है कि मेरी जमीन की क्या क़ीमत है। उस को यह मौका भी न दिया जाय कि वह एक दरख्वास्त दे तो उस की ऐप्लीकेशन कोई ले ले, कोई यह पूछ ले कि तुम्हारे मुंह में कितने दांत हैं। इस में यह है कि सिर्फ समेरी ऐन्क्वायरी (Summary Enquiry) होगी टु फिक्स दी वै यू आफ दी लैंड, वाट इज़ दि मार्केट वैल्यू। यह सीधा रूल बन जायेगा कि इतनी वैल्यू दे दी जाय। अकुपेन्सी टेनेन्सी बिल जो है वह हाउस के सामने है। जो उसूल उस में कायम किया गया है उतना पर्सेन्टेज दे दिया जाय ज़मीन के वास्ते। जो उस के नज़दीक है उस के वास्ते भी क़ीमत मुकर्रर कर सकते हैं कि इतना पैसा दे दिया जाय। यह तरीक़ा कहीं भी जायदाद की कीमत निकालने का नहीं है। मैं कहता हूं कि किसी ने परवाह नहीं की, न गवर्नमेन्ट आफ़ इंडिया ने, न प्रैज़ीडेन्ट ने और न पंजाब गवर्नमेन्ट ने कि कम से कम इस के अन्दर इतना अख्तियार देती कि जब किसी शख्स की जायदाद बिकती है तो कम से कम उस को इतना मौका तो दो कि अदालत में जा कर वह इतना कह सके कि मेरी जायदाद की इतनी क़ीमत है दिलाओ या न दिलाओ। वह कम से कम एतराज़ तो कर सके, कम से कम वह इतना तो कह सके कि वह जायदाद बारह वर्ष से उस के कब्ज़े में नहीं है। उस को इतना भी कहने का अख्तियार नहीं है। एक्स पार्टी (*ex parte*) प्रोसीजर, एक्स पार्टी डिसीजन हो जायेगा तुम्हें बारह वर्ष से हक़ हो या न हो। मैं अदब से अर्ज़ करूंगा कि यह तरीक़ा जो रखा गया है वह इस क़िस्म का है जिसे कोई वाइल्डेस्ट (wildest) गवर्नमेन्ट भी एक मिनट के लिये नहीं बर्दाश्त कर सकती लेकिन हम वह इस्तेमाल करने के लिये तैयार हैं। मैं अदब से अर्ज़ करना चाहता हूं कि अगर क़ानून पास होता और उस के सारे प्राविजन्स को पंजाब के किसी आदमी को बतलाया जाता तो वह लाखों आदमी ले कर आता और गवर्नमेन्ट के सामने अर्ज़ी देता कि इस क़ानून को पास न किया जाय लेकिन वह लोग अपनी बात कहने से महरूम हैं। अब मेरे वास्ते यह मौका रह गया है कि मैं अर्ज़ करूं कि इस को माडिफाई कर दिया जाय। आप इस की वजूहात को देखें। इस में क्या क़ानून है। मैं तो यहां तक कहूंगा कि अगर जनाब इस के खास खास प्रोविजन्स का मुलाहिजा फरमायेंगे तो हैरान होंगे कि किस तरह से ऐसा क़ानून प्रैजीडेन्ट के नाम से वाबस्ता किया गया। अगर करना था तो पंजाब के गवर्नर साहब कर देते। कोई और अथारिटी कर देती। हमारे यूनियन गवर्नमेन्ट के प्रेज़ीडेन्ट का नाम तो इस के साथ वाबस्ता नहीं करना चाहिय था क्योंकि इस के प्राविजन्स अजीब हैं। उन को कोई भी आदमी जो वाइल्डेस्ट इमैजिनेशन का हो कभी मंजूर नहीं करेगा। इस के सेक्शन १२ ए में दर्ज है :

"Explanation: For the purpose of section 12A or section 12B—

(a) In computing the period of continuous occupation, the

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> period during which the tenant was suffering from a legal disability or physical infirmity or was a widow or an unmarried woman shall be excluded;"

जनाब वाला, मैं ने बेहद कोशिश की कि मैं इन अल्फ़ाज़ के मानी समझ सकूं और इतना ही नहीं, कि मैं ने खुद कोशिश की हो, मैं ने अपने बुजुर्गों से भी मदद लेने की कोशिश की और ऐसे आदमियों से मदद लेने की कोशिश की जिन से उम्मीद की जा सकती थी कि कोई एन्लाइटेन्मेन्ट (enlightenment) मिल सकेगा । मैं जनाब बक्शी जी की खिदमत में हाज़िर हुआ । लेकिन मुझे कोई इसका मतलब नहीं समझा सका और जो मैं ने समझा है अगर वह बयान करूं तो जनाब समझेंगे कि शायद मैं जनाब की खिदमत में कोई किस्सा बयान कर रहा हूं जिस का आप यक़ीन नहीं कर सकते । इस के सही माने जो अल्फ़ाज़ से निकलते हैं वह यह हैं कि जिस असें में एक शख्स की बेवा या ग़ैर शादी शुदा लड़की उस ज़मीन पर क़ाबिज़ रहेगी, या उस का कोई नाबालिग़ बच्चा होगा या खुद उसी में कोई फिजिकल इन्फर्मिटी (physical infirmity) होगी । शायद इस का मतलब यह है कि वह पागल हो, लूला लंगड़ा हो, बहरा हो, गूंगा हो, फिज़िकल इन्फर्मिटी के बहुत से माने हो सकते हैं, मैं इस की पूरी तशरीह नहीं जानता । इस असें को निकाल दिया जायगा । कंटिनुअस अकुपेशन के वर्क आउट (work out) करने में इन चीज़ों को निकाल दिया जायगा । तो क्या मैं पूछ सकता हूं कि अगर एक शख्स सन् १९२५ के अन्दर एक ज़मीन का मालिक था तो क्या जब वह मर जायगा तो उस की बेवा और बच्चों को ज़मीन से निकाल दिया जायेगा । यह असें जब उस की बेवा वहां मौजूद रही पच्चीस या पचास वर्ष क्या वह एक्स्क्लूड कर दिया जायेगा । और सन् १९१२ से सन् १९२५ तक जिस आदमी का क़ब्ज़ा रहा वह पच्चीस बरस बाद आये तो उसे उस का हक़ होगा । मैं अदब से अर्ज़ करना चाहता हूं कि क्या यह हो सकता है कि एक शख्स मर गया तो उस के मरते ही उस की बीवी और बच्चों से उस का हक़ छीन लिया जाय । उस को जो हक़ था वह था लेकिन बीवी बच्चों को नहीं है ? मैं समझता हूं कि क़ानून ऐसा संगदिल नहीं हो सकता कि आदमी को तो हक़ हो लेकिन उस के मरने के बाद बीवी और बच्चों से हक़ छीन लिया जाय । इसलिये मैं इस एक्स्प्लेनेशन का मतलब नहीं समझ पाया कि जो साहब हर एक के लिये बहुत नरम दिल रखते हैं और मालिक की जायदाद छीन कर जमींदार को देना चाहते हैं वह समझते हों कि टेनेन्ट्स के बीवी और बच्चों को हक़ न हो । यह हो सकता है कि खास तौर से उस के बीवी बच्चों का ख्याल करने को तैयार न हों लेकिन यह नहीं हो सकता कि वह चाहें कि बारह बरस के कंटिनुअस अकुपेशन में जितना असें आदमी की बेवा वहां रहे लड़की या उस का नाबालिग़ बच्चा १८ बरस की उम्र तक उस continuous occupation को एक्स्क्लूड कर दिया जाय । तो मैं अर्ज़ करूंगा कि यह ऐसा क़ानून बन जायेगा जिस की मिसाल शायद हिन्दुस्तान में तो क्या किसी दूसरे मुल्क में नहीं मिल सकेगी कि जिस के अन्दर रिट्रास्पेक्टिव एफेक्ट दिया गया हो और लाइफ टाइम ही नहीं पचास सालों का रिट्रास्पेक्टिव एफेक्ट

दिया गया है। मैं हाउस की तवज्जह खास तौर पर इस प्राविजन की तरफ मांगता हूं। अगर इस प्राविजन को रहने दिया जाय तो जितने लोग लैंड के गुड टाइटल्स होंगे उन के साथ बड़ी ज्यादती होगी। आज वह शख्स जिस के पास कंटिनुअस अकुपेशन है वह मर गया, उस की बेवा मर गई, उस के बेटे मौजूद हैं उन के खिलाफ यह लागू किया जायगा। यही नहीं कि उस की लाइफ टाइम में बल्कि उस के बाद पचास सालों तक कभी वह कंटिनुअस अकुपेशन नये सिरे से नाफिज किया जा सकेगा। कोई भी आदमी नहीं समझ पायेगा कि उस का किसी जायदाद पर क्या हक है। मैं अर्ज करना चाहता हूं कि यह प्राविजन एक अजीब तरह का प्राविजन है जिस को समझने से अक्ल इन्कार करती है। मेरे दिमाग में यह नहीं आता और मैं अर्ज करूंगा कि मैं तब तक इस को मानने के लिये तैयार नहीं हूंगा जब तक कि इस को मुझे समझाया न जाय।

इस के अलावा इस का अलग प्राविजन है :

"(b) a tenant for a fixed term exceeding five years shall also be deemed to be a tenant.

जनाब वाला की तवज्जह में पहले ऐक्ट के टिनेन्ट की तारीफ की तरफ दिलाता हूं जिस के अन्दर कि टिनेन्ट के वास्ते कहा गया है कि ऐसे टिनेन्ट इस की तारीफ में शामिल नहीं होंगे :

"'Tenant' has the meaning assigned to it in the Punjab Tenancy Act, but does not include

(a) a person having the right of occupancy;

(b) a person who holds land for a period or term less than four years under a contract or decree or order of competent authority while such contract, decree or order is in force."

जनाब वाला एक तरफ तो यह तारीफ है कि वह टिनेन्ट इस में शामिल नहीं होता और उस के लिये यह लिखा गया कि जो टिनेन्ट पांच साल का होगा :

He shall be deemed to be a tenant for the purposes of section 12.

तो यह एक दम बखिलाफ है। यह नहीं होना चाहिये।

इस के अलावा मैं अदब से अर्ज करना चाहता हूं कि एक मिनट के वास्ते एक और आरग्यूमेंट का मुलाहिजा फरमाइये। इस कानून के रू से हर टिनेन्ट को हक हो जायेगा कि उस की अपनी जमीन से बेदखली नहीं की जाय। इस के मानी यह हैं कि पांच साल तक वह बेदखल नहीं हो सकेगा। इस तरह आप मजबूरन कानून की रू से उस को पांच साल तक बेदखल नहीं होना देना चाहते। तो आज जो सात साल का टिनेन्ट है पांच साल बाद वह १२ साल से ज्यादा की मियाद वाला हो जायेगा। इस के माने यह हुए कि आज जो सात साल का मुजारा है वह पांच साल बाद उस को खरीद सकेगा। मेरे ख्याल में इस से ज्यादा सख्त और गैर इन्साफी की और कोई बात नहीं हो सकती। पांच साल तक वह निकाला नहीं जा सकता और अगर इस वक्त वह सात साल का टिनेन्ट है तो पांच साल बाद उस को उस जमीन में मिल्कियत का हक हो जायगा। मैं इस हाउस को एक बात बतलाना चाहता हूं कि पंजाब में यू० पी० की तरह बड़े बड़े जमींदार नहीं हैं। पंजाब में छोटे छोटे जमींदार जो अपनी जमीन के मालिक हैं। आप जो कानून नाफिज कर रहे हैं अगर इस को बड़े जमींदारों के खिलाफ नाफिज

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करते तो दूसरी सूरत थी, इन छोटे ज़मींदारों का तो इस में नुक्सान ही होता है। पंजाब में खास कर भूड़ के इलाके में जो पचास एकड़ का ज़मींदार है उसे बड़ा ज़मींदार नहीं कहा जा सकता। इतनी ज़मीन से तो वह अपना काम भी नहीं चला पाता है। मैं सपक्षता हूं कि हमारे मिनिस्टर साहब को हिसार ज़िले का तजुर्बा है। अभी तीन चार दिन हुए कि मैं वहां से वापस आया हूं। आप वहां की हालत देखें तो आप को मालूम हो कि वहां क्या हालत है। तीन सौ एकड़ वाले तक अपना गुज़ारा नहीं कर पा रहे हैं। वहां कहत पड़ा हुआ है। उस इलाके में हर चौथे पांचवें साल कहत पड़ा करता है और ज़मीनों के मालिक अपने घरों को छोड़ कर मज़दूरी करने चले जाते हैं। जिस के पास सिर्फ पचास एकड़ ज़मीन है उस को मजबूर हो कर कहत के ज़माने में अपनी ज़मीन छोड़ कर मज़दूरी करनी पड़ती है। यह ज़मींदार एक तरह के पेज़ेंट प्रोप्राइटर हैं। इन की आमदनी कम से कम ३०० रुपये माहवार की होनी चाहिये जिस से कि चार पांच आदमियों का काम चला सकें। अगर आप स्टैंडर्ड आफ लिविंग बढ़ाना चाहते हैं तो मैं आप से पूछना चाहता हूं कि क्या एक आदमी के पास भूड़ के इलाके में पचास एकड़ होने से उस का स्टैण्डर्ड बढ़ सकता है। हां अगर नहरी इलाका हो तो मैं मान सकता हूं कि वह करीब करीब उस स्टेण्डर्ड पर रह सके। लेकिन भूड़ में किसी को पचास एकड़ देना और उस के स्टैण्डर्ड आफ लिविंग को बढ़ाने की सोचना तो एक अजीब तरीका है। इधर हमारे ऐग्रीकल्चर मिनिस्टर साहब हुक्म देते हैं कि कोआपरेटिव फार्मिंग करो, बड़े बड़े फार्म बनाओ ताकि उन पर ट्रैक्टरों से काश्त हो सके। और ज़मीन के टुकड़े टुकड़े न हों और पैदावार बढ़े। इधर आप कहते हैं कि हर एक आदमी ट्रैक्टर ख़रीदे और उधर आप कहते हैं कि उस के पास पचास एकड़ ज़मीन हो। मैं ट्रैक्टर की काश्त का बड़ा हामी नहीं हूं लेकिन कौन जाने कि आगे ट्रैक्टर कल्टीवेशन कामयाब हो जैसा कि और मुल्कों में हो रहा है। तो ऐसी हालत में मैं अर्ज़ करना चाहता हूं कि अगर आप ट्रैक्टर से कल्टीवेशन करवाना चाहते हैं तो उस के पास कम से कम सौ एकड़ तो होना चाहिये जिस से कि वह ट्रैक्टर से पूरा काम ले सके। मैं आप से यह अर्ज़ करना चाहता हूं कि पंजाब में सौ एकड़ के मालिक से सौ एकड़ का आकुपेंसी टिनेन्ट ज़्यादा मालदार होता है। आप मुलाहिज़ा फरमायें कि यह चीज़ कितनी डिस्क्रिमिनेटरी है। हम ने अपने कांस्टीट्यूशन में माना है कि आदमी आदमी में कोई फर्क नहीं होना चाहिये। यह चीज़ उस के खिलाफ जाती है। इस में दर्ज है :

> "Nothing contained in this Act shall apply to any land held by an occupancy tenant."

12 NOON

आज आकुपेंसी टिनेन्ट को यह अख्तियार दिया जा रहा है कि इस ऐक्ट की रू से कि वह थोड़ा सा मुआवजा देकर मालिक बन जायगा। यह ऐक्ट उस की ज़मीन को हाथ नहीं लगाता चाहे उस के पास दो सौ एकड़ ज़मीन हो या पांच सौ एकड़ ज़मीन हो। मैं जानता हूं कि वह काश्तकार इतनी ज़मीन पर खुद काश्त नहीं कर सकता बल्कि दूसरों को देता है। लेकिन उस की ज़मीन को हाथ नहीं लगाया जा सकता। यह कौन सा इन्साफ है एक आकुपेंसी टिनेन्ट की ज़मीन पर चाहे वह पचास [illegible] से

ज्यादा हो यह कानून लागू नहीं होगा पर एक लैंडलार्ड के ऊपर भूड़ के इलाके में भी पचास एकड़ से ज्यादा ज़मीन पर लागू होगा ? मैं आप से यह अर्ज़ करना चाहता हूं कि यह डिस्क्रिमिनेशन बिल्कुल ग़लत है। इस के अलावा आक्युपेंसी टिनेन्ट को कोई चीज़ एप्लाई नहीं करेगी। जो आक्युपेन्सी टिनेन्ट का टिनेन्ट है उस को इस से कोई फायदा नहीं पहुंचता। उन के जो गरीब से गरीब टिनेन्ट हैं उन के लिये इस में कोई प्राविज़न नहीं है लेकिन फिर भी कहा जाता है कि हम गरीबों के लिये कानून ला रहे हैं। मगर इस में लिखा है कि :

"Nothing contained in this Act shall apply to any land held by an occupancy tenant."

मैं अदब से अर्ज़ करूंगा कि यह तरमीम भी उसी नुक्ते ख्याल से देखी जाय जिस नुक्ते ख्याल से और प्राविसेज़ में क़वानीन बनाये गये हैं जिस से ज़ाहिर हो कि गवर्नमेन्ट का कोई पोलिटीकल मोटिव (Motive) नहीं है बल्कि वह इन्साफ करना चाहती है और गरीब से गरीब को फायदा पहुंचाना चाहती है। यह नहीं समझा जाना चाहिये कि पेज़ेंट प्रोप्राइटर्स को बचाया जाता है और दूसरों के खिलाफ है। मैं चाहता हूं कि छोटे से छोटे टिनेन्ट की चाहे वह किसी भी हैसियत का हो सरकार को मदद करनी चाहिये, उसकी टिनेंसी को पक्का करना चाहिये और उस को हर तरह की मदद दी जानी चाहिये। पर आप उस को महरूम रखते हैं। इस के बाद इस में दर्ज है :

"Any land which after excluding any such area therefrom as may be held by an occupancy tenant does not exceed in area the permissible limit."

इस के बारे में मैं पेश्तर अर्ज़ कर चुका हूं।

इस के अलावा जनाब वाला इस में एक नई चीज है।

"And land held by a tenant or lessee of Government."

मैं अदब से पूछना चाहता हूं कि जब गवर्नमेन्ट दूसरों के टिनेन्ट्स के लिये कानून बनाती है तो उन रियायतों से अपने टिनेन्टस को क्यों महरूम रखती है। गवर्नमेन्ट को अख्तियार है कि वह अपने टिनेन्ट्स को हर साल तबदील कर सके। क्यों गवर्नमेन्ट अपने टिनेन्ट्स को रियायत नहीं देना चाहती ? मैं अदब से अर्ज़ करना चाहता हूं कि गवर्नमेन्ट को सब से पहले अपने टिनेन्ट्स को यह रियायत देनी चाहिये थी। लेकिन गवर्नमेन्ट ऐसा नहीं करना चाहती है।

जनाब वाला, आगे चल कर इस कानून बनाने वालों को यह सदमा भी महसूस हुआ कि किस तरह हम उन बेचारे शरणार्थियों से कल को वह रियायतें कैसे वापस ले सकते हैं जो कि हम उन को आज दे रहे हैं। अगर उन पर भी यह कानून लागू हो तो जो ज़मीन उन को आज एलाट की गई है उस से वह मुज़ारों को बेदखल नहीं करवा सकते। इस लिये उन के लिये यह लिखा गया है :

"Nothing contained in section 12A or Section 12B shall affect any evacuee property as defined in the Administration of Evacuee Property Act, 1950."

मैं अदब से अर्ज़ करना चाहता हूं और मुझे इस के अन्दर थोड़ा सा दुःख होता है क्योंकि मैं नहीं चाहता कि जो डिस्प्लेस्ड परसन्स पंजाब से आये हैं उन को कोई तकलीफ हो। उन को जो मुआवज़ा दिया गया है वह काफी नहीं है और

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न सरकार का और कुछ देने का इरादा है। उन को कोई भी तकलीफ होती है तो मैं उस को महसूस करता हूं। लेकिन मैं एक बात और साफ कर देना चाहता हूं। कोई कानून जो डिस्प्लेस्ड परसन्स के राइट्स में और यहां के लोकल बाशिन्दों के राइट्स में डिस्क्रिमिनेशन करेगा वह दोनों के वास्ते नुकसानदेह होगा। मैं नहीं चाहता कि एक नये किस्म की जात हमारे यहां पंजाब में और बंगाल में बन जाय एक तो पाकिस्तानी के नाम से और दूसरे गैरपाकिस्तानी के नाम से। मैं समझता हूं कि जितने भी डिस्प्लेस्ड परसन्स आये हैं वह हिन्दुस्तान के उसी तरह बाशिन्दे हैं जैसे कि और। अगर उन के हक किसी के कम नहीं हैं तो ज्यादा भी नहीं हैं। जब तक हम इस चीज को महसूस नहीं करेंगे तब तक देश में शान्ति नहीं होगी। आज तक नवाब ममदोत के मुजारे जो फ़ीरोजपुर में थे वह निहायत खुश थे। उन से ज्यादा लगान नहीं लिया जाता था? करनाल के नवाबों के मुजारे जो कि पाकिस्तान चले गये हैं पूरी तरह खुशहाल थे। वह दूसरे लोगों से ज्यादा खुशहाल थे। आज जो हक वहां गरीब से गरीब मुजारे को है उस से इस कानून के जरिये उन को वंचित रखा जायेगा।

क्यों किस वास्ते यह १२ ए और १२ बी उन के बरीखलाफ़ असर नहीं रख सकेगा? इस लिये कि अगर यह चीज उन पर लागू होती, इस कानून का उन टेनेन्ट्स पर असर होता तो इन मजारों के ऊपर भी लागू होता। इन मजारों ने क्या कसूर किया है कि पंजाब गवर्नमेन्ट यह डिस्क्रिमिनेशन कर रही है? गवर्नमेन्ट को यह डिस्क्रिमिनेशन नहीं करना चाहिये। यह ऐक्ट तो बेइन्साफी से भरा हुआ है, डिस्क्रिमिनेशन से भरा हुआ है। किसी ने आंख खोल कर भी नहीं देखा कि हम क्या कर रहे हैं और क्या नहीं कर रहे हैं। जनाब वाला, जहां एक आदमी को यह हक दिया गया है कि ५० एकड़ रख सके, ५० एकड़ जहां परमिसिबुल लिमिट क़रार दी गई वहां पर जमीन की तारीफ में न तो गार्डन को एक्सक्लूड किया गया और न बंजर को एक्सक्लूड किया गया। आखिर एक टेनेन्ट है जो कल्टीवेटेड लैंड पर कब्जा लेना चाहता है, उस में बंजर लैंड को भी इन्क्लूड करने से क्या फायदा। मैं पूछना चाहता हूं कि इस में बंजर लैंड को क्यों इनक्लूड किया गया है। बाग़ात ठेके पर दिये जाते हैं, इस में क्यों गार्डन का इनक्लूड किया गया। और जनाब वाला, मैं आप की खिदमत में अर्ज करता हूं कि जो पहाड़ी इलाका है वहां मुजारे तीन तीन एकड़ के नहीं होते, तीन तीन एकड़ से वहां गुजर नहीं हो सकती, वहां जमीनें बंजर पड़ी हुई हैं, वहां पर तो कई कई सौ बीघों के मजारे होते हैं। वहां उस के वास्ते भी यह ५० एकड़ है और यहां के वास्ते भी ५० एकड़ है। ५० एकड़ का स्टैंडर्ड तो दर्ज है। लेकिन हम जानते हैं कि हिली एरियाज में इस ५० एकड़ के स्टैंडर्ड का क्या मतलब होगा। हर एक की मिल्कियत को सैटल किया जा रहा है, इस में मजारों के साथ इंसाफ नहीं हो रहा है। देश के अन्दर कहीं भी इस तरह की चीज नहीं है। और अब यह कानून किस तरह का है कि हम कुछ कह नहीं सकते। यह क़ानून ऐसा नहीं है कि इस के ऊपर किसी असेम्बली के अन्दर बहस की जा सके, यह भी नहीं कि यह पबलिक ओपिनियन

के लिये भेजा जाय और पबलिक ओपिनियन इस के ऊपर पूछी जा सके। क्यों फिर हमारी बैक पर एक ऐसा हुक्म आता है कि जिस को हम न मानें तो यह कहा जाय कि हम प्रैजीडेंट साहब की इज्जत नहीं करते। मैं निहायत अदब के साथ आप की खिदमत में अर्ज करता हूं कि ग़रीबनिवाज क्यों हमारे ऊपर इस तरह का क़ानून आप लाद रहे हैं, इस की आप को क्या जरूरत थी कि आप इस क़ानून के पार्टी होते, आप ने क्यों हम को मुसीबत में डाल दिया। अगर कोई ऐसी चीज़ होती है जो कि हमारे होम मिनिस्टर साहब करें तो मैं उस को बहुत ही इज्जत की निगाह से देखता हूं। उस पर अगर प्रैज़ीडेन्ट साहब का नाम हो तो मैं उस की और भी इज्जत करता हूं और सारे गवर्नमेन्ट आफ़ इंडिया के नाम से कोई चीज़ आये तो मैं उस को इतने एहतराम से देखता हूं कि उस पर नुक्ताचीनी करते हुए मैं हिचकता हूं। लेकिन इतना इल ड्राफ़्टेड, इतना इलकन्सीव्ड और क्या क्या तारीफ करूं, इतने इस के अल्फ़ाज़ में नुक्स हैं, कि ऐसा मिसकनसीव्ड और दूसरा बिल नहीं हो सकता। अब अगर इस के यह नुक्स दुरुस्त नहीं किये जाते तो मैं अपने होम मिनिस्टर साहब की खिदमत में निहायत अदब से यह अर्ज करना चाहता हूं कि वह इतना कह दें कि जो उन के दस्तख़त इस बिल पर हो गये हैं, उस से यह बिल सैक्रोसैंक्ट नहीं हुआ। प्रैज़ीडेन्ट साहब के नाम से बनने से यह सैक्रोसैंक्ट नहीं हुआ। नये सिरे से जब यह बिल पंजाब की असेम्बली में जायगा तो वहां पर पता चल जायगा कि किस तरह पंजाबी इस क़ानून को पास करना चाहते हैं। मेरी गुज़ारिश यह है कि इस क़ानून के ज़रिये पंजाब को सारे हिन्दुस्तान से अलहदा न कीजिये। यह क़ानून जो हिन्दुस्तान के किसी हिस्से पर नाफ़िज़ नहीं है, उस को हमारे ऊपर मत लादिये, इस तरह से हम को अपने राइट्स से डिप्राइव न कीजिये। अगर आप डिप्राइव ही करना चाहते हैं तो इस तरह बैक डोर से क्यों आते हैं, हम ने क्या गुनाह किया है। मुझे ज़मींदारी अबालीशन बिहार की मंजूर है जहां कि एक कलम से एक तारीख़ मुक़र्रर कर दी कि सारी ज़मीन की मालिक गवर्नमेन्ट है। मैं इस को अंडरस्टैंड कर सकता हूं। लेकिन मैं यह नहीं अंडरस्टैंड कर सकता कि पंजाब में मिल्कियत को इस तरह मिटा दिया जाय और उस की एक बात तक न सुनी जाय। इस क़िस्म का ऐक्ट तो कभी भी नाफ़िज़ नहीं हुआ।

तो मैं अर्ज करना चाहता हूं कि इस बिल के अन्दर इतनी ख़राबियां हैं कि बयान नहीं कर सकता। मैं जनाब का ज्यादा वक्त भी नहीं लेना चाहता क्योंकि मैं ने अभी तक जो वक़्त लिया है वह भी सिर्फ़ मोटी मोटी बातें अर्ज करने में लिया है। अगर मैं थोड़ा डिटेल में जाऊं तो बहुत ज्यादा वक़्त लग जायगा और मैं नहीं चाहता कि जनाब का ज्यादा वक़्त लूं। यह सब मैं ने दीबाचे के तौर पर अर्ज किया है। अब मैं जनाब की इजाज़त से थोड़ा सा अपने अमेंडमेंट के बारे में मुख़्तसर तौर पर अर्ज कर दूं। यह बिल तो ऐसा नाक़िस बिल है कि यह सारे मोडिफिकेशन होने के बाद भी जनाब यह देखेंगे कि इस के फाउंडेशन में जो उसूल हैं वह ऐसे हैं कि जिन को न कभी हाउस ने मंजूर किया और न करेगा। तो ऐसी हालत में दो ही सूरतें हैं। या तो होम मिनिस्टर साहब यह कह दें कि यह सब काम ऐसा है कि जिस पर अब पंजाब की असेम्बली फ़ैसला कर ले

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या फिर यहां पार्लियामेन्ट में फ़ैसला कर लिया जाय। और यही मैं ने पहले भी कहा था कि हमें प्रैजीडेन्ट साहब को अख्तियार नहीं देना चाहिये, यह अख्तियार पार्लियामेन्ट में रहना चाहिये। उस वक़्त मैं ने यह भी कहा था कि गवर्नमेन्ट पंजाब के मेम्बरों को बुला कर, कम से कम उन की सिलेक्ट कमेटी बुला कर ऐसे क़ानन को दुरुस्त कर ले। लेकिन यह चीज़ भी मैं दुरुस्त नहीं समझता। पंजाब की असेम्बली की हक़ है और उस को अब यह हक़ हासिल हो जायगा। उस समय जो होम मिनिस्टर साहब थे उन्हों ने कहा था कि इलेक्शन के पहले ही वहां पर असेम्बली को हक़ दे दिया जायगा। ख़ैर, हम उससे महरूम रहे। लेकिन अब तो वहां इलेक्शन हो गया है और असेम्बली आ रही है, अब उस को क्यों महरूम रखा जाता है। अगर वह इस में किसी तरह की शर्म महसूस करते हैं कि आप की क़लम से यह निकल चुका है और शायद यह पंजाब गवर्नमेन्ट की बेइज़्ज़ती है कि इस के अन्दर इन्साफ़ किया जाय और इस को वापस लिया जाय, और पंजाब गवर्नमेन्ट से कहा जाय कि उन्हों ने क्यों ऐसा क़ानून भेज दिया है, तो कम से कम आप यह तो कहिये कि इस को सैक्रोसेंक्ट न माना जाय, कि इस को प्रैजीडेंट साहब ने बना दिया है। अगर मेहरबानी कर के आप फंडामैंटल राइट्स के बारे में दुरुस्ती कर सकें तो बेहतर है, वह कर दें, वरना इस को आप कह दें कि आप के दस्तख़त की वजह से सक्रोसैंक्ट यह नहीं हुआ।

मैं जनाब की इजाज़त से एक और प्राविजन की तरफ़ तवज्जह दिला दूं जिस का मुराद मैं अभी तक नहीं समझा हूं और वह है प्रोवाइजो दफ़ा १२ अलिफ़ में। मैं इस का मतलब समझना चाहूंगा जिस में यह दर्ज है :

"Provided that no tenant referred to in this sub-section shall be entitled to exercise any such right in respect of the land or any portion thereof if he had sublet the land or portion, as the case may be, to any other person during any period of his continuous occupation, unless during that period the tenant was suffering from a legal disability or physical infirmity or, if a woman, was a widow or was unmarried."

यह, जनाब वाला, उस एक्सप्लेनेशन (explanation) से मिलता है जिस की बाबत मैं अर्ज कर चुका हूं और जिस के बारे में मैं थोड़ी सी तक़रीर भी कर चुका हूं। यह दफ़ा १२ अलिफ़ के अन्दर है। लेकिन मैं इस के मुराद को नहीं समझा हूं, यह जो तरीक़ा इस में दिया है इस को मैं नहीं समझ सका। दफ़ा १०ए इस बात का हक़ देती है कि जब कोई सेल हो, फ़र्ज़ कीजिये, २०० एकड़ का सेल हो तो २ एकड़ का टेनेन्ट उस २०० एकड़ का शुफ़ा करा सकता है। लेकिन अगर उस ने सबलेट कर दिया हो तो शुफ़ा नहीं कर सकता। फ़र्ज़ कीजिये कि एक आदमी के पास २५ बीघा ज़मीन है और २५ बीघा में से १२ बीघा सबलैट कर चुका है तो उस ज़मीन का तो शुफ़ा नहीं करा सकता लेकिन जो टेनेन्सी में शामिल नहीं है उस का शुफ़ा करा सकता है। मैं इस को कैसे और किन अल्फ़ाज़ में अर्ज़ करूं कि वह सबलैटिंग वाले पोर्शन का तो शुफ़ा नहीं कर सकता और बाक़ी का कर सकता है जो उस की टेनेन्सी में शामिल नहीं है, मैं जनाब वाला से पूछता हूं कि यह क्यों ? सबलैटिंग क्यों

इतना ख़राब क़ानून माना गया है ? सबलैटिंग में क्या ऐसा गुनाह है कि उस सबटेनेन्ट को वह रिआयत नहीं है जो कि टेनेन्ट को है। सबलैटिंग के बरख़िलाफ़ क्यों इतना सख्त क़ानून आप बना रहे हैं ?

[MR. DEPUTY-SPEAKER *in the Chair*]

अगर आप किसी मज़ारे को हक़ देते हैं तो वही हक़ूक़ सबटेनेन्ट को भी हासिल होने चाहियें, कम से कम उस टेनेंट के बरखिलाफ़ जो लैंडलार्ड बन गया है। तो मैं अदब से इन दो फ़िक़रों का मतलब, इस ऐक्सप्लेनेशन का और इस प्रोवाइज़ो का, समझना चाहूंगा, आनरेबिल होम मिनिस्टर साहब इस का मतलब समझा दें या मुझे बतला दें कि इस का क्या मुराद है और किन हालतों में यह अप्लाई करेगा । यह तो मैं समझ सकता हूं कि कोई विडो होगी । मेरी समझ में आनरेबिल होम मेम्बर साहब यह तो नहीं कहेंगे कि चूंकि वह विडो हो गई, उस का आदमी जाता रहा, तो उस का हक़ भी जाता रहा। मेरी समझ में यह तो एक्सप्लेनेशन नहीं देंगे। तो मैं इस प्रोवाइज़ो और एक्सप्लेनेशन का मुराद समझना चाहूंगा ।

अब मैं जनाब वाला की तवज्जह चन्द अमेंडमेंट्स के बारे में दिलाना चाहता हूं। सब से पहली अमेंडमेंट जो है वह नम्बर दो पर है। जैसा मैं ने अर्ज़ किया चन्द अमेंडमेंट तो एक ख़ास मुराद को लिये हुए हैं कि यह जो इस को वर्टिकल सैक्शन कर दिया गया है यह क़ायम न रखा जाय, बल्कि जैसा सारे हिन्दुस्तान में क़ानून है वैसा रहे, कोई भी टेनेन्ट जो हो उस को हक़ दे दिया जाय । चन्द तरमीम तो इस पहलू को लिये हुए हैं । मैं उन के ऊपर मुफ़स्सल अर्ज़ करना नहीं चाहता। क्यों कि मैं ने उसूल बयान कर दिया है । अगर आप उस उसूल को मानें तो यह चन्द तरामीम बिलकुल रेलेवेंट और दुरुस्त बन जाती हैं । अगर आप उस उसूल को न मानें और हाउस इस उसूल को न माने तो इन तरामीम के अन्दर जाने की ज़रूरत नहीं रहती ।

गार्डेन्स और बंजर लैंड के बारे में मुख्तसरन् अर्ज़ कर दिया है । मैं ने लैंड ऐक्यूज़ीशन के बारे में दो तरमीमें दी थीं कि लेड एक्यूज़ीशन के वक्त प्रीऐम्पशन के सिलसिले में जो लैंड ऐक्यूज़ीशन ऐक्ट १८९४ में दफा २३ में उसूल हैं उन को मार्केट वैल्यू क़ायम करते वक्त मद्देनज़र रखा जाय । और मैं ने डर कर कि कहीं १८९४ का ऐक्ट बहुत पुराना ऐक्ट समझा जाय और हाउस उस में दिये हुए पन्द्रह परसेंट को माने या न माने मैं ने एक दूसरी तरमीम भी देदी जो दफ़ा २७ प्रीऐम्पशन ऐक्ट पर इक्तिफ़ा करती है और जिस में अपील वगैरह का भी प्रावीज़न है, वह बिलकुल मासूम तरमीम है जिस को मंज़ूर करने में कोई बाधा नहीं होनी चाहिये । यह कभी किसी की मंशा नहीं है और मैं उन अशखास में से हूं जो टेनेन्ट्स के हक़ को कभी नज़रअन्दाज़ नहीं करते और मैं चाहता हूं कि जायज़ तौर पर जितनी इमदाद दे सकें, हम उन्हें पहुंचायें । लेकिन उसके साथ ही हर एक शख्स को इस बात के मानने में भी परहेज नहीं होना चाहिये कि लैंड ऐक्यूज़ीशन के वक़्त हर एक को मौका दिया जाय इतनी रियायत दी जाय कि वह अपनी प्रापरटी की मार्केट वैल्यू तय करा सके, और ज़रूरी हो तो अपील कर सके। मैं अर्ज़ करूंगा कि जनाब वाला इस को पेश करते वक़्त एक मिनट के लिये यह ख्याल फ़रमायें कि पंजाब के अन्दर वह लोग बसते हैं जिन को हिन्दुस्तान

[पंडित ठाकुर दास भार्गव]

का एक तरह से सोर्ड आर्म कहा जाता है। पंजाब में रहने वाले ज्यादातर आर्मी में जाते हैं, अब भला अन्दाज़ लगाइये कि आप आर्मी में सर्व करने वालों के साथ इस मौजूद एक्ट के ज़रिये किस क़दर बेइन्साफ़ी कर रहे हैं। पच्चीस वर्ष तक वह देश की सेवा करते हैं और उस का सिला यह हों कि उन की अदम मौजूदगी में उन की ज़मीन उन से छीन ली जाय, इस से बढ़ कर बेइन्साफ़ी उन लोगों के साथ और क्या हो सकती है जो फ़ौज में भर्ती हो कर देश की सेवा करते हैं और अपनी जान अर्पण करते हैं। बारह बर्ष की टेनेन्सी आकुपेशन के मातहत जो शख्स नौकरी पर हों आर्मी में हों उन की ऐबसेन्स में उन की जमीन को उन से छीन कर उन के टेनेन्ट्स को दे दी जाय यह जस्ट नहीं है। इस एक्ट के अन्दर ऐसे लोगों के लिये ज़रूर कोई रियायत रक्खी जानी चाहिये थी, मेहरबानी से नहीं, लेकिन यह इंसाफ़ का तक़ाज़ा है कि जो लोग फौज में हों, वह जब फौज से डिस्बैंड किये जायें, तो ऐसा न हो कि वह अपने घर पहुंचने पर यह पायें कि उन की ज़मीन उन से छीन कर दूसरों को दे दी गई है। रात दिन वह नौकरी बजाते हैं और बारह वर्ष बाद वह अपनी ज़मीन छिनी पाते हैं यह निहायत गैर इंसाफ़ी है। अस्ल में सारे का सारा क़ानून जो इस तरह से ज़मीन को ऐक्वायर करने का हक़ देता है नाजायज़ है। मैं चाहता हूं कि अगर आप ने इसे करना है तो सब के साथ इंसाफ़ कीजिये। मैं चाहता हूं कि देश के अन्दर ऐकानामिक होल्डिंग्स बनें। जिन मालिकों के पास उन की ज़रूरत से ज्यादा ज़मीन हो, उन को मुआविज़ा दे कर एकानामिक होलडिंग्स बनाये जावें और इतनी ज़मीन दी जाय जो उन के गुज़ारे के वास्ते ठीक हो। आप ऐसा ग़लत रास्ता क्यों अख्तियार करते हैं जिस से देश में बेचैनी और असन्तोष फैले। आप प्लान्ड एकानिमी शुरू कीजिये जिस से किसी को दुःख नहीं होगा। मैं चाहता हूं कि इस देश के अन्दर गुजारे के वास्ते हर एक आदमी को मौक़ा मिले और ऐसा न हो कि कोई तो ज़रूरत से ज्यादा ज़मीन और पैसे वाला हो और कोई गुज़ारा न कर सके। मैं चाहूंगा कि इस तरह से सारी ज़मीन का फैसला हो जाये। मैं जब इस ऐक्ट की मुख़ालफ़त करता हूं तो मैं उन उसूलों की मुख़ालफ़त नहीं करता हूं जिन को कांग्रेस मान चुकी है। लेकिन अगर इस तरीक़े से अमल किया गया जैसा आप चाहते हैं तो सिवा अशान्ति के मुझे और कोई चीज़ होती नज़र नहीं आती। अगर आप ने यह क़ानून बनाना है तो बनाइये लेकिन ऐसे लोगों के लिये ज़रूर प्राविज़न रखिये जो आर्मी में भर्ती हो कर देश की सेवा कर रहे हैं ताकि उन की ऐबसेन्स में इस ऐक्ट का यूज़ नहीं होगा। इसी तरीक़े से जैसे आप ने टेनन्ट्स के विडो और अनमैरीड डाटर और नाबालिग़ बच्चों के लिये प्राविज़न रखा है, उसी तरीक़े से मैं कहूंगा कि मालिक के जो नाबालिग़ बच्चे, विडो आदि हैं उन को क्यों उस से ऐक्सक्लूड किया जाय। उन को उतना ही हक़ है जितना कि टेनन्ट्स के घर वालों को है। यह वाजिब नहीं है कि देश के एक सेक्शन के वास्ते आप नर्म दिल रखें और दूसरे के प्रति न रखें। इस लिये आप अपना क़ानून साउंड प्लान्ड ऐकोनामी की बेसिस पर लायें जो पंजाब के वास्ते ठीक हो। पंजाब लैंड ऐक्ट जो गुज़िश्ता जमाने में बना था, वह भी मज़ारों को महफ़ूज़ रखता था, मैं ख़ुद चाहता हूं कि हम ऐसा बिल पास करें जिस

से उन के हक़ को हम महफ़ूज़ रख सकें, और मैं समझता हूं कि पंजाब के अन्दर ऐसा बिल बनाया जाना चाहिये जिस से मज़ारों को ठीक तरह से महफ़ूज़ किया जा सके। लेकिन मेरी गुज़ारिश यह है कि यह तरीक़ा उस को महफ़ूज़ करने का नहीं है जो आज आप बर्त रहे हैं। और मेरे ख्याल में आप को मौजूदा तरीक़े को कोई राइट माइन्डेड आदमी पसन्द नहीं करेगा।

मैं ने जनाब और हाउस का वक्त अपने अंदाज़े से ज्यादा ले लिया है, लेकिन मैं लाचार था क्योंकि मैं यह महसूस करता था कि जो मामला हाउस के सामने पेश है वह इस क़दर ज़रूरी है और इस क़दर अहम है कि उस पर जितनी तवज्जह दी जाय, थोड़ी है। इस के अलावा यहां पर बहुत से मेम्बरान ऐसे प्राविन्सेज़ से आये हैं जो पंजाब की हालत से पूरी तरह वाक़फ़ियत नहीं रखते हैं और शायद मैं ऐसी ज़बान में बोला हूं जिस को समझने में उन्हें कुछ दिक्कत भी हुई होगी।

श्री गौतम: बहुत सख्त ज़बान थी।

पंडित ठाकुर दास भार्गव: लाचारी है, लेकिन एक ऐसे शख्स की ज़बान है जिस ने आप की और हाउस की खिदमत में अपनी गुज़ारिश पेश की है, हाउस को हक़ है उस पर जो चाहे फ़ैसला दे। पंजाब का प्राविन्स बेहद तक़लीफ़ में है, वहां काफ़ी अर्से से उस की अपनी पापुलर गवर्नमेंट नहीं है और अगर पुराना ज़माना होता तो हम पंजाब के मौजूदा शासन को आटोक्रेटिक रुल कह सकते थे।

श्री गौतम: मैं ने सख्त अल्फ़ाज़ के इस्तेमाल के मुताल्लिक़ कहा है, ज़बान को सख्त नहीं कहा है। जैसे आप ने तरमीम और मज़ारे को अपनी स्पीच में इस्तेमाल किया है।

पंडित ठाकुर दास भार्गव: मैं नहीं जानता कि तरमीम के लिए और मैं क्या लफ़्ज़ इस्तेमाल करूं, और मज़ारे के लिए टेनेन्ट्स का लफ़्ज़ इस्तेमाल करूं। अन्त में मैं इतना ही कह कर खत्म करूंगा कि यह एक बहुत अहम मामला है और अगर इसे आपने मौजूदा शक्ल में पास कर दिया तो आप एक ऐसा उसूल पंजाब के लिए बनायेंगे जो सारे देश भर में और कहीं मौजूद नहीं है। इन अल्फ़ाज़ के साथ मैं अपनी तरमीम को पेश करता हूं।

(English translation of the above speech)

Pandit Thakur Das Bhargava: With your permission Sir, I would not read the whole thing as it would take time. I would, therefore like to put only one Resolution so that all the amendments may be considered together in regard to this Act.

Mr. Speaker: Each Resolution has to be taken separtely because each of them consists of a large number of amendments and there are separate Acts.

Pandit Thakur Das Bhargava: I am submitting not in regard to other Acts but I am only confining this Resolution to the one Act, that is the Punjab Tenants (Security of Tenure) Amendment Act, and I felt that all the amendments may be taken together so that they may all be considered together in regard to one Act.

Mr. Speaker: Yes.

Pandit Thakur Das Bhargava: Before dealing with the amendments I would, with your permission Sir, like to trace a brief history—as a preface to my arguments—of the Act in question as to what this amended Act is like, what modification my Resolution seeks to make there and why. First of all I would refer to the President's Address in which he was pleased to state that no controversial issues would come up before the House during the current session of the Parliament and the House would deal with only non-controversial matters. But I regret to mention that so far Parliament has had considered no Act that was more controversial than the one in question. When I would

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take up those Acts and explain their implications, the House would realise that never had it to face more complicated issues than these. I did not want this matter to come up at all before the House during this session. You would remember Sir, that when this Delegation of Powers Bill was brought before the House in 1951, long debates were held. It was argued that such powers should not be delegated to the President. But on the persistent demand of the Government the Bill was passed. We, however, passed an amendment to the effect that Parliament could make modifications in any Act passed by the President. I for one was against it as I knew that it was very difficult for us to bring about any modification after the President had once promulgated an Act. Not only the Government did not consult the public opinion in Punjab before enacting this Act but they did not allow it to be subjected to any debate or criticism so that its merits or demerits could come to light. What we find is that the President ignored the public opinion in Punjab and promulgated this Act. Now it is for us to point out its defects and state what harms it is likely to do and also ask the Government to justify their move. Why do they take such steps as throw the entire burden on the other side? This is a legislation inconsistent with the very fundamentals of law. We have yet to search for an example in which a Government did not justify what it did and, on the other hand, asked the opposition to point out the defects therein. Moreover the entire thing is being done in an ill-considered way. I fail to understand how their minds are working. Nothing ought to have been done of their own accord. The Act in question is likely to do more harm than good. When the original Act was passed by the Punjab Assembly on November 4, 1950, the State was governed by the Congress Government. The Congress party being in the majority had commended this bill to the House. Then came the President's Act. The main principles embodied in the original Act passed on November 4, 1950 were generally approved of by the Congress Party as also the country as a whole and, therefore, I have nothing to say against them. That Act was known as the Punjab (Security of Tenure) Amendment Act, 1950. The main object of that Act was to provide security of tenure to the tenants of Punjab and to fix the period of tenancy at four years. It provided that no tenant could be ejected arbitrarily during the period between the 16th June, 1950 and the 16th June, 1954, both days inclusive. Under the Tenancy Act of 1887 any tenant could be ejected at any time. It depended on the sweet will of the landlord whether or not he wanted to keep him any longer. He was not required to give any explanation for that. When the Congress came to power, it enacted that Act of 1950. The Congress Government proceeded on the assumption that everyone held land as owner and the rights of tenancy as they existed were so in name only. Undoubtedly, people were against the old Tenancy Act of 1887 inasmuch as it had no provision to prevent a tenant from being ejected at any time. Under that Act he could be ejected even if he paid the rent. That is why the original Act of 1950 was passed. The policy of the Congress was to provide security of tenure to the tenants and in order to achieve that end it was resolved that a tenant who paid rent regularly for four years and fulfilled other conditions of tenancy imposed legally by the landowner, should not be ejected afterwards. I still agree—and I believe everyone would agree—with the main idea behind this Act, namely tenant's position should be made secure. If the Congress rule has done any good it is certainly one. The other feature of the Act was that the limit of ownership of land was fixed at 200 ordinary acres or 100 standard acres. As regards the rent, the Act provided that the amount payable by a tenant should be such as had been agreed to between the landlord and the tenant, and in the absence of any such agreement, the customary rent for similar land prevalent in the tehsil in which the land was situated may be taken into account. One more thing which deserves your attention Sir, was that this Act of 1950 provided that no disposition of land by operation of law or will of the landlord would be competent during the tenancy of the tenant, save in the case of the land being required to be sold. If after the sale or transfer or other disposition of the land under the tenancy the rights of the tenant were not recognised the tenant was entitled to pre-empt the sale of the land under his tenancy and restore it to his posession. I would submit that this Act is different from other similar laws made in the other parts of the country. In Uttar Pradesh and elsewhere they did not distinguish between the tenants of big and small landlords. They, on the other hand, provided that every tenant's position

was to be made secure. Whether his landlord was big or small, a tenant enjoyed the rights of tenancy throughout his life-time—even where it was for a shorter period, no descrimination between the tenants of big and small landlords was made. It was not that a tenant of landlords possessing at least 200 ordinary or 100 standard acres of land alone could be recognised for the purpose of providing relief. But here in Punjab the scope of the relief is limited to the tenants of landlords possessing more than 200 ordinary or 100 standard acres of land. The amendment moved by me does not seek to make modification in the principles embodied in the original Act of 1950. It is in respect of the President's Act which was enacted on December 24, 1951. You will see Sir, that one more Act enacted by the President is before the House. I will refer to my amendments in respect of that Act later when it is taken up. But I want to bring to the notice of the House the fact that this Punjab Tenants (Security of Tenure) Amendment Act, 1951 is different from this other Act, namely the Punjab Betterment Charges and Acreage Rates Act, 1952. The former was promulgated on the 24th December while the elections commenced on the 26th December, that is it was enacted only two days before the commencement of the elections. The other Act, namely, the Punjab Betterment Charges and Acreage Rates Act, 1952—which sought to charge certain fees from the people—was enacted on the 18th January after the elections had concluded. I would humbly submit that no laws, Acts or Bills ought to have been enforced or enacted for election purposes only. When the members from Punjab were called and asked to place their views in regard to these Acts, I had made it quite clear that although I being a Congress candidate did not like to see the authority and prestige of the Congress suffer on any account, yet I did not want my opponents to complain that by seeking to enact such Acts at the time of elections we were simply trying to take undue advantage of our position. Therefore I suggested that these Acts should not be enacted. Yet they were promulgated, one was enacted on the 24th December, that is, two days before the commencement of the elections and the other immediately after the elections had concluded. This provided our opponents an opportunity to charge us with having gained undue advantage by enacting these Acts. I would submit that the question now before us is different, namely, whether or not the President's Act is justifiable and whether we should support it or seek to modify it. The President's Act has made certain amendments in the original Act of 1950. Firstly it has increased the minimum period of tenancy from four to five years. I do not object to it. But all the same none is going to get benefit out of it just at present. It would have its effect only in 1953 and not before that. In that case there was no use promulgating it as early as on December 24, 1951. The second amendment made by the President's Act in the original Act is no doubt most welcome. Since we sincerely desire that as much relief be provided to the tenants as possible, nothing could be more welcome than the fixing of the maximum rent to be paid by the tenant. I know that for years and years in the past there has been nothing in the law as might prevent a landowner to charge as much rent of his land as he liked. Now we are going to abolish this age long practice. This Act provides that no landlord shall charge from his tenant more than one third of the crop of the land or its equivalent in value. This is the most redeeming feature of the President's Act. At many places in Punjab at present half of the crop of the land is taken by the landlord. Now, by the virtue of this Act, the maximum rent of a tenant is fixed at one-third of the crop value of the land. But my only objection is that it would benefit only those tenants whose landlords possess at least 100 standard acres of land. Tenants of small landlords are not going to get benefit out of it. Only the tenants of big landlords would be affected. As a matter of fact, tenants of big landlords are not subjected to so much atrocities as are committed on those of small landlords the reason being obvious. Whereas big landlords seldom visit their lands, small ones practically live with their tenants and come in their contact more frequently with the result that they snatch as much as half of the crop from their tenants and also treat them quite mercilessly. The Act does not provide any relief to the tenants of small landlords and that is, to my mind, the worst feature of it. Similar laws enacted and enforced in other parts of the country provide relief to all types of tenants but in the case of Punjab things are otherwise. Now that the limit of ownership of a landlord is reduced to 50 standard acres, tenants of landlords possessing less than 50 standard acres of land would get no relief. I feel that poorer tenants deserve more relief; but this Act has ignored them altogether.

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The third main amendment made by the President's Act in the original Act reduces the limit of ownership of a landowner from 200 ordinary acres or 100 standard acres to 100 ordinary acres or 50 standard acres. In 1950 Punjab Legislative Assembly considered 200 ordinary acres or 100 standard acres to be a reasonable limit. I do not know what changes have since taken place in Punjab that made the Government reduce the same. If this amendment was made by the Assembly itself, it would have been better. I understand the hon. Minister knows quite well how the tenants have been ejected under the Punjab Tenancy Act. Notices would be served from the 15th November to the 15th January and the ejectments would take place from the 1st May to the 15th June, and not before that. The new legislature in Punjab will meet in the month of March or April. It would be open to the new legislature to stand or repeal the Act. The President and his Government just did not wait even till that time. As you know Sir, Article 357 of the Constitution provides that such laws shall lapse after one year of the enactment unless they are re-enacted. They shall not be, therefore, required to be repealed. When there was such provision in the Constitution I think there was no need at all of making these amendments especially when they were of no use to anyone. I fail to understand how the question of imposing such an Act on the people without even consulting them arose at all. Unfortunately for us the Government of India also, without thoroughly examining the matter, approved of such an Act being enacted. They did not think for a while that bringing this matter here would simply mean waste of time, especially so when the new legislature of Punjab is going to meet shortly. I do not know where was the necessity for the President to enact this Act on behalf of the Government of India. In this connection I may be asked why I am taking the time of the House then.

Dr. Katju: That is what I was going to suggest.

Pandit Thakur Das Bhargava: The hon. Minister's objection is, of course, right. But I have to submit that when this Act comes before the new legislature of Punjab the legislature will see it from another point of view. It would be said there that the President considering the desirability of such a measure enacted that Act. It has got the approval of the Government of India as also of Minister of Home Affairs, who, I believe, is one of the most eminent lawyers of this country. I would, therefore, like to say that let there be no Government of India stamp on it. Let the people of Punjab, who are believed to be well conversant with their conditions, enact only such laws as they consider proper. I know that the Punjabis would never make such a law which is in fact inconsistent with our fundamental rights and other principles which I hope to take up later on.

The other thing which I object to in this Act is to my mind its main lacuna. I think it is a change for the worse. By virtue of section 10 of the President's Act three new sections, namely, 12A, 12B and 12C have been inserted after section 12 of the principal Ast. Section 12A provides that a tenant, who has been in continuous occupation of the land comprised in his tenancy for a period exceeding four years, shall be entitled to pre-empt the sale of the land. That is, if a person sells for, say a lac of rupees 200 acres of land to a certain vendee and a portion of that land happens to be in continuous occupation of a tenant for a period exceeding four years, the said tenant shall be entitled to pre-empt the sale in respect of the entire land. Moreover, six cases are pending in the High Court in which the validity of the Pre-emption Law itself is questioned. It is argued that the entire Pre-emption Law is inconsistent with the Fundamental Rights. The matter is referred to a full bench of the High Court which is to deliver its verdict on the issue. Now that the position is such and as many as six cases are pending in the High Court, I do not think it was justifiable on the part of the Government of India to buttress that Act through the backdoor, Sir, the point to be considered is that a person who is a tenant only for four years has a right of pre-emption with regard to the sale of land which is worth a lakh of rupees. Not only he can pre-empt the sale of his tenancy but he has also the right to pre-empt the sale of the entire land comprising two hundred acres and worth a lakh of rupees. This right of his supersedes the right of a son, a brother, a joint owner and a Co-partner. According to the present Pre-emption Act of Punjab,

if a person sells his land, then his relations have a right of pre-emption; his son or his brother or his inheritors and also the joint owner has a right to pre-empt the sale of that land. The *biswedar* and an occupancy tenant also enjoy this right. But now the tenant is being given the right to supersede them all and pre-empt the sale of the entire land. Leaving aside the rights of these people, the tenant has a right to pre-empt the sale of the whole land although he may be a tenant of only two *bighas*. I respectfully submit that that this is a law which goes against our common intelligence and the Fundamental Rights of the people. No man loving justice can accept this sort of law for a minute.

Babu Ramnarayan Singh: That is right.

Pandit Thakur Das Bhargava: Further I read out a sentence from the Statement of Objects and Reasons which indicates that in fact the Act made by the President did not intend to grant such a right to the tenant. The words given therein read:

> "The present Punjab Tenants Amendment Act enhances the minimum period of a tenancy from four to five years. It attempts to fix the maximum rent of a tenant-at-will at one-third of the crop of the land or its equivalent in value. It enables a tenant who has been in continuous possession of his land for a period of four years to pre-empt any sale of his tenancy."

The words, 'of his tenancy' are there only to suggest that he can pre-empt the sale of his tenancy alone. But the words in Clause 12 here are not the same. According to this Clause, a tenant of one or two *bighas* can pre-empt the sale of two hundred acres of land which does not seem to be the intention of the President at all. It appears, I am sorry I have to point out a shortcoming in my province, that we have no good draftsmen in English. They have written a language which perhaps nobody cared to revise and see as to how it would be interpreted. So that is a very great defect in this Bill.

Now, I take another defect. I may mention in the beginning that I do not accept this principle because this Act is named as 'The Punjab Tenants (Security of Tenure) Amendment Act, 1951" and its Preamble and Long Title say:

> "An Act to amend the Punjab Tenants (Security of Tenure) Act, 1950 for affording further security of tenure to tenants".

I can very well understand giving further security of tenure. It may be five years instead of four. I am also prepared to accept that he should not be allowed even to make an agreement for paying more than one-third of his crop as rent. I can agree to all this but I cannot accept that while there is a question of security of tenure, he should be given the right to pre-empt the sale of land which is not even included in his tenancy. He had never a desire to purchase others' lands or to pre-empt the sale of land intended to be purchased by others. I would also say that such a provision cannot be brought about by an amending Act of this nature because it is outside its scope. This Bill has been introduced with a view to afford security of tenure and therefore I say that it is misconceived and that it could never have meant like that.

Now, I would submit something about Clause 12 B. It is a provision which is revolutionary in character and which makes a great change in our economy. Uptil now the Tenancy Act of 1887 was being followed, a clause of which says that a tenant cannot become the owner of a land although he might be in possession of it for any number of years because his possession does not become an adverse possession, it remains only a permissive possession. But according to clause 12 B, a new law is being enacted. As far as I know, there is no such law anywhere in India. There is a provision here in this Bill regarding pre-emption, that a tenant has the first right to purchase the land if it is offered for sale. But now it is also being provided here that if a person has a continuous possession for 12 years on a particular land, he can force his landlord to sell that land to him and acquire his ownership only because the land-owner allowed him to cultivate the land for 12 years and he was in possession of that land for that period. The owner cannot object to it. He cannot ask for any reasons and say that he (tenant) is not taking the right attitude since he had been kind to him for 12 years and did not eject him which he could do any day. And Sir, the good landlords have to face greater difficulties. I know of cases where the landlords and the tenants have been the same for two generations and their relations have throughout been cordial. But today a law is being enacted against them,

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These landlords did not eject their tenants for 12 years and did not treat them harshly but what is the result which they are getting? Their land is being snatched from their hands and passed over to the tenants. I plead Sir, this is wrong and unjust. I will speak more on this matter when it is taken up later. Sir, we had been discussing the question of abolition of *Zamindari* since long and I submit that I am in favour of this abolition because I feel that unless this Act is passed, we would not be able to solve many great problems of our country. But at the same time I am not in favour of giving so much compensation to them as might not easily be borne by the State. Therefore, I moved certain amendments in the Constituent Assembly that questions such as abolition of *Zamindari*, strengthening the position of peasant proprietors, creation of economic holdings or consolidation of holdings should be decided by the Legislature instead of being taken to the Law Courts. I still accept this principle. But I say that unless a sort of planned economy is decided upon by the State Government and unless lands of private owners are not allowed to be snatched from them and given to other persons, such a step would be against law, against principles and against our declared policy. Article 31 of the Constitution deals with property and we have provided therein that nobody will be deprived of his or her property without adequate compensation being paid. We passed the First Constitutional Amendment Act which provided that property could be acquired only for public purposes and we put a further restriction that if a State Legislature passed such a law, even then President's assent would be required to enforce it. So I remember when this measure came before the Select Committee I raised my voice against certain provisions. The definition of the word "estate" in the Tenancy Act included even small *biswedars* and even the smallest landlords came under its purview. An objection was raised in the House and considering the objection to be justified the hon. Minister Dr. Ambedkar and the Prime Minister gave us an assurance that land and property would be acquired only for public purposes and President's assent would be essential for the enforcement of the Act. But I respectfully submit that under the proposed Act, the Government would not be purchasing the land for public purposes but the land would be snatched from some people and given to others. Under this Act a person would be forced to surrender his land and efforts are being made to take away his land from him. I would talk about the price of land later on. Sir, I would like to draw your attention to Article 19 of the Constitution wherein much has been said about fundamental rights. This provision is so very essential for the benefit of our country and society and we have taken special care to incorporate these rights in our Constitution. One of these rights is:

> "All citizens shall have the right to acquire, hold and dispose of property".

The words, 'right to acquire land', 'hold and dispose of property' imply that everybody will have the right to acquire land. But as I said earlier, pre-emption has been questioned and at present six cases are pending before the full bench. "I cannot be said to have the right to hold property." Unfortunately, under this measure, a person would put in an application that the land should be transferred to him and the result would be that I would be dispossessed of my land. Sir, I respectfully submit that this law is not covered by the exception which has been provided with regard to fundamental rights as given in Article 19 of the Constitution:

> "Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe."

I would say, that with any stretch of imagination this law does not seem to come under this exception. Under this Bill, a person who is in possession of a land for twelve years would be deprived of his property and another man would be given that land. I respectfully submit that according to Article 31, nobody should have the right to deprive any one of his property unless it is required for a public purpose. This new provision 12B militates against the fundamental rights and we cannot uphold this clause in any case.

As regards value, a strange procedure has been provided; I am rather forced to say that it is the most ill-conceived procedure. It gives powers to the Assistant Commissioner and

Assistant Collector to furnish notices to the landlords and other persons interested in the land immediately after they receive an application to this effect from any person and then fix the value of the land. Section 12B says:

> "after giving notice to the landlord and to all other persons interested in the land and after making such inquiry as he thinks fit, shall fix the value of the land."

I would like to say, Sir, that an entirely different procedure is being sought to be adopted with regard to the Properties of the Punjabis. According to the law which has been in force for the last 56 years in the country, if the land of any person is to be acquired, he is given 15 % of the value as disturbance of possession and before acquiring the value of the land is ascertained. In order to ascertain the market value of land the Collector issues a notice and then an order is sent. Under that order both the parties have a right to put forward their arguments regarding the fixation of market value. Even after that, a right of appeal is there and the whole case can be taken to a court from where it can go to a High Court. But there is no such provision here and the party has no right to utter a word against the decision of the Assistant Collector. The fixation of market value depends entirely on him. The present measure can be compared to that of 1907 about which it was said that there was no scope of any argument, any discussion, any appeal or any reason. I feel that it is a great injustice to snatch anybody's land in this manner. The people of Punjab, in particular have a greater love for their land, because conditions in Punjab have been uncertain for centuries and every person has developed great affection for his land and does not want to break his ties with it. The Punjabi can tolerate all difficulties but he does not want to loose his land in any case. It is very necessary that a reasonable market value should be fixed before his land is acquired and that he should be given the right of appeal in a court of law against the decision of the officers. In no case it is just and proper that a *tehsildar* should have the right to fix the value of land worth lakhs of rupees in an arbitrary manner. I respectfully submit this measure is not only against the fundamental rights but against those principles also which have been enunciated in the Bill introduced by Shri Gadgil day before yesterday in this House. It deals with the requisition and acquisition of immovable property. He has introduced a Bill so that it may be enacted in the current session. The Bill outlines certain methods of giving compensation if the State Governments acquire land for the Union Government; I would like to draw the attention of the House towards these provisions as to how carefully the Government acts if they want to acquire land or any other thing for themselves, and how particular they are to remain just in these matters. The Bill provides that an arbitrator would be appointed immediately who would fix the compensation after deciding the market value of the land. They will fix the value of the land. There is a provision of appeal also and a number of ways have been provided for that. According to Clauses 8, 9, 10 and 11, he has a right to receive full and fair price of his property. I want to ask why a principle different from that adopted for the Union is being accepted in the case of Punjab and why the ancestral land of the people there is being snatched without paying any compensation? Why should he not be given adequate compensation and in a manner which is favourable to him. I respectfully submit that this is a Bill which should be immediately rejected by the House. I draw your attention to clause 8:

> "(1) Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say—
>
> (a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;"

I want to ask why should we not be allowed to settle the price ourselves if the land is to be purchased by some one? The Government issues an order that such and such land is to be taken from him. They know the reasons why it is being done. But I want to say, that if a person is prepared to pay more price for my land where is the objection? If there is no agreement on this matter, then what is provided here is that:

> "(b) Where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as a judge of a High Court;"

I have no right even to have my own legal adviser:

> "(c) The Central Government may, in any particular case, nomi-

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nate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose:"

Sir, even a person charged with crime is given an opportunity to defend himself before the court, but here a man whose property is being requisitioned has not even the right to open his mouth as to the value of his property. How far is it justified that he is given no chance at all and there is none to entertain his application. It only provides for a summary enquiry to fix the value of the land, not even the market value. It would become a direct rule that so much value may be paid. The Occupancy Tenancy Bill is also before the House and he may be compensated in accordance with the principle laid down in that. But the method now being envisaged to assess the value of property is not found to prevail anywhere. It is indeed so unfair that neither the Government of India nor the President nor even the Punjab Government cared to give the person the right to go to the court to claim what he considers to be the actual value of his property. He has not even the right to appeal to the court against his eviction on the grounds of his being in possession of the property for 12 years. Irrespective of the fact of his being in possession of it for 12 years, there would be an *ex-parte* procedure, an *ex-parte* decision. I would submit that such procedure cannot be tolerated even by the wildest Government and yet we are ready to adopt that. Had this Bill undergone the usual procedure of passage in the Legislature and its provisions were explained to the people of Punjab, they would have made representations to the Government in very large numbers against this measure. But they are compelled. Now it is left to me to urge for a modification in it. Sir, if you would only make a perusal of its main provisions, you would be surprised as to how such a measure was promulgated in the name of the President. If it had to be done, it could have been done by the Governor or by some other authority. But at least the name of the President of our Union should not have been attached to it for its provisions are so strange that even the man of wildest imagination would not accept them. Section 12 A says:

"*Explanation*: For the purposes of section 12A or section 12B—

(a) in computing the period of continuous occupation, the period during which the tenant was suffering from a legal disability or physical infirmity or was a widow or an unmarried woman shall be excluded;"

Sir, I tried my best to grasp the meaning to these wordings not only by myself but with the help of my learned friends also in order to be enlightened as to its implication. I also went to the hon. Shri Bakshi ji. But nobody could explain to me what really was meant. If I were to explain what I have understood, you would Sir, imagine that I were relating a story which you would not believe. The meaning which can apparently be attached to these wordings is the period during which it was in the possession of a widow or an unmarried daughter or some minor child or during which the tenant himself was suffering from physical infirmity, 'physical infirmity' may mean many things, I do not know its full implications, it may mean mad or lame or deaf or dumb or anything else, this period would be excluded in working out the continuous occupation. May I then ask if the widow and the children of a man who was the owner of a land in 1925 would be evicted from the land after his death? Will the period of 25 or 50 years during which his widow was there should be excluded? And if a man having been in possession of the land from 1912 to 1925, turns up after 25 years, will he be entitled to it? Is it possible that after the death of a person his widow and children are deprived of those rights that he enjoyed? I do not think that the law can be so heartless as to deprive the widow and children of a man of the rights that he was entitled to. Hence I am unable to understand the meaning of this explanation. It is strange that the Government which is so kind as to give to the tenant the right over the property of the landlord should deprive the widow and the children of these rights. It is conceivable that they may not be prepared to give special facilities to his widow and children; but to exclude the period of continuous occupation during 12 years during which his widow is there with her minor son or daughter unless he or she attains the age of 18 years is unthinkable. If such a law is enacted, in which the retrospective effect has been given not only of the life-time but from fifty years, it would become a thing without a parallel, not only in India but in any other country. I beg to draw the attention of the House

specially towards this provision. If this provision is retained, it would be doing a great injustice to the good titles of the land. If a person fulfiling the condition of continuous occupation dies and his widow also dies then this provision would be used against his sons if they are alive. Not ony could this provision of continuous occupation be used during his life-time but even upto 50 years thereafter. None would be able to understand what right he holds over a property. It is a curious type of law which the understanding refuses to apprehend. I am unable to understand it and I submit that I would not be prepared to accept it unless it is properly explained to me.

Then comes the next provision:

"(b) a tenant for a fixed term exceeding five years shall also be deemed to be a tenant."

Sir, I beg to draw your attention in this connection towards the definition of 'tenant' given in the original Act according to which such tenants are not included in this definition:

"'Tenant' has the meaning assigned to it in the Punjab Tenancy Act; but does not include

(a) a person having the right of occupancy;

(b) a person who holds land for a period of term less than four years under a contract or decree or order of competent authority while such contract, decree or order is in force."

Thus, Sir, according to this definition the tenant is not included in it while here the person having a tenancy of five years shall be deemed to be a tenant for the purpose of section 12.

Then for a minute I would solicit your attention towards another argument. This law would entitle every tenant not to be ejected from his land. That means that he would not be ejected for five years. Thus by the very virtue of law he could not be ejected for five years. Now, a person having a tenancy of seven years would complete a period of 12 years after five years' time. That means that a tenant of seven years could purchase that land after five years. I think there could be no greater injustice than that. On the one hand he cannot be ejected for five years while on the other he assumes proprietory right after that period if he has a tenancy of seven years before that. In this respect I must draw the attention of the House to the fact that in Punjab we do not have big *Zamindars* like those in Uttar Pradesh. In Punjab there are small *Zamindars* who hold their lands. If the present measure were to be applied to big *Zamindars* only, that would have been a different matter. But here the small *Zamindars* are suffering. In Punjab, specially, in the *Bhur* area, the *Zamindar* having 50 acres of land cannot be termed as big *Zamindars*. With that amount of land he is unable even to make his livelihood. I think the hon. Minister has some experience of the district of Hissar. I have come back from there only three or four days back. The conditions there are such that those having 300 acres of land are unable to make both ends meet. There we are having the conditions of famine. That area is visited by famine every fourth or fifth year and the owners of land there leave their homes for other places to work for their livelihood. Those who have only fifty acres of land are obliged to work as labourers during famines. These *Zamindars* are a sort of peasant proprietors. They should have at least an income of Rs. 300/- per month to pull on a family of four or five persons. The Government want to increase the standard of living of the people. May I ask if the standard of living of the people of *Bhur* area can be properly maintained with 50 acres of land with a person? I can agree that that amount of land can enable a person to nearly maintain that standard if that land falls in a canal area. But to give 50 acres of land in *Bhur* area and to think of improving his standard of living is a very curious thing. Our Minister of Agriculture advocates co-operative farming and pleads for bigger farms so that tractor farming may be possible and the land may not be sub-divided and production may increase. Thus on the one side they say that tractors should be used while on the other hand they do not want to leave even 50 acres of land with a man. I am not a great supporter of tractor farming but who knows that tractor may prove to be successful here also as in other countries. So my submission is that if you want cultivation with the help of tractors, a man must have at least 100 acres of land in order that he may fully make use of the machine. In Punjab, the occupancy tenant of 100 acres is more well off as compared to a landowner of 100 acres. You will see how discriminatory is that thing. We have accepted in our Constitution that there should be no differentiation between man and man. This goes against that. It says:

"Nothing contained in this Act shall apply to any land held by an occupancy tenant."

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By this measure the occupancy tenant is being given the right to become the owner of the land by giving a small compensation. But it leaves untouched his own land whether it be 200 acres or 500 acres. I know that that tenant cannot cultivate it by himself but sublets it to others. But his land is left unaffected. How far is it justified that this measure will apply on more than 50 acres of land of a landlord in the region of Bhur but not in the case of an occupancy tenant even if he has more than 50 acres of land. This kind of discrimination is improper. The tenant of the occupancy tenant would not gain anything by the law. There is no provision here for even the poorest of such tenants and yet it is claimed to be a measure for the relief of the poor. It says:

> "Nothing contained in this Act shall apply to any land held by an occupancy tenant."

I would urge the Government to look to this amendment from the same point of view from which legislation has been made and other provinces so that it may become clear that the Government do not have any political motive but that they want to do justice. It should not appear that the Government want to benefit the present proprietors at the cost of others. Indeed I want the Government to help all tenants, to make their tenancy permanent and to give them all facilities. But you are depriving many of them. Then it says:

> "Any land which after excluding any such area therefrom as may be held by an occupancy tenant does not exceed in area the permissible limit."

About this I have already expressed my views. Besides, it contains a new thing:

> "Any land held by a tenant or lessee of Government".

I want to ask when the Government make laws for the tenants of others why do they deprive their own tenants from those facilities. They have the right to change their tenants every year if they like. My submission is that the Government should first of all have given this facility to their own tenants. But that they do not want to do.

Then Sir, the framers of this measure made a provision by which the facilities that have been given to the displaced persons could be taken back. If the present measure were also applied to them, these tenants could not have been ejected from the lands allotted to them. So for them it has been provided:

> "Nothing contained in section 12A or section 12B shall affect any evacuee property as defined in the Administration of Evacuee Property Act, 1950."

I am somewhat pained at this for I do not want that the persons displaced from Punjab should suffer in any way. The compensation given to them is not sufficient, nor do the Government purpose to give them any more when they suffer, I feel their suffering.

But I should like to make one point clear. Any law which would discriminate between the rights of the displaced persons and those of the local inhabitants would prove to be harmful to both. I do not want the creation of a new community in Punjab and Bengal, one by the name of Pakistani and the other non-Pakistani. All the displaced persons that have come here are citizens of India like the others. Their rights are equal to those of the latter. Unless we realize that, there could be no peace in the country. The tenants of the Nawab of Mamdot in Ferozpur are happy even today. Their rent was reasonable. The tenants of the Nawab of Karnal who has gone to Pakistan, were quite happy. They were better off than others. But this law would deprive even the poorest of those tenants of their rights.

Why 12A and 12B should not affect them? It is because if this thing applied to them, and if this law affected those tenants, it should have applied to these tenants also. For what fault of theirs are the Punjab Government making this discrimination? Government should not do so. This Act is full of injustice and discrimination. Nobody has cared to take the pros and cons of the matter into consideration. Sir, while 50 acres has been fixed as the permissible limit for a person, neither garden nor fallow land has been excluded from the definition of land. After all, what is the good of including fallow land in the cultivated land which a tenant wants to acquire? I ask why fallow land has been included in it? Why have gardens been included in the tenancies which are given on lease?

I submit Sir, that in the hilly areas, the holdings do not comprise three acres only. Only three acres of land cannot do. There vast tracts of

land lie fallow and holdings run into several hundred *bighas* each. The limit of ownership has in both cases been fixed at 50 acres of land. What would this limit of 50 acres mean in the hilly areas?

The proprietory rights of everybody are being settled. Justice is not being done to tenants in this connection. You, Sir, would not find anything of this kind in the country. And what kind of a law is this, on which we cannot speak, which cannot be discussed in any Assembly and which cannot be circulated for eliciting public opinion thereon? Then why should an order be enforced over our head, for objecting to which we would be dubbed as being derogatory to the President? I would humbly ask Sir, why such a law is being forced upon us and what was the necessity of your being a party to this law? Why have you put us in trouble?

I have great respect for the hon. Home Minister or anything he does. I respect it all the more, if the President is associated with it and if it is done in the name of the Government of India as a whole, I respect it so much that I am afraid of criticising it. But there cannot be another Bill as ill-drafted, as ill-conceived, as defective in its wording as this one. Now if the defects of this Bill are not remedied, I would, with the utmost respect, request the Home Minister to declare that his signatures over this Bill have not made it sacrosanct and that it has not become sacrosanct simply because it is in the name of the President. When this Bill is presented anew in the Punjab Assembly, the reactions of Punjabis will become clear. My submission is that the Punjab should not be separated from the rest of India by passing this Bill. Such a law is not in force in any other part of India. It should not be forced on us and we should not be deprived of our rights. But if you are bent upon depriving us of our rights, it should not be done through the back door. What is our fault? I can understand the abolition of *Zamindari* in Bihar, where with a stroke of the pen and at a fixed date it was declared that Government is the owner of the land. I can understand that. But I can't understand the abolition of proprietory rights in the Punjab without consulting anybody there. Such an Act has never been enforced. Sir, I want to submit that there are innumerable defects in this Bill. So far I have recounted the major defects, and if I go into details, it would take a long time and I do not want to take much of your time. All this I have submitted as a preface. Now, with your leave, I would briefly deal with the amendment proposed by me. This Bill is extremely defective and it would remain so even after all modifications have been made, because the principles underlying it are such as have never been nor will ever be accepted by the House. So there are now two ways open. Either the Home Minister should announce that the whole matter would be decided by the Punjab Assembly or by this Parliament. Previously also I stated that this right should not be given to the President, but to Parliament. At that time I also suggested that the Government should amend this Bill in consultation with M.Ps. from the Punjab or at least with a Select Committee of theirs. But now I do not think it to be proper.

The Punjab Assembly has this right or it will have this right now. The then Home Minister had stated that this right would be given to the Punjab Assembly before the elections. We went without that. But now elections have been completed there and the new Assembly is in the process of formation. Why should it be deprived of that right now? The Home Minister hesitates to withdraw this Bill, because it has passed through his hands and perhaps because to withdraw it would be construed as an insult to the Punjab Government, but these things should not be considered and justice should be done. This Bill should be withdrawn and the Punjab Government should be asked why it had submitted such a Bill. If it cannot be done, you should at least declare that the Bill is not sacrosanct and that it has not been made so by the President. If you could kindly amend the Fundamental Rights, it would be much better, otherwise you should better declare that this Bill has not become sacrosanct by your signatures.

With your permission, I would like to draw your attention to another provision, the implication of which I have not yet been able to understand and that is in proviso 12A. I would like to know what it means. It says:

> "Provided that no tenant referred to in this sub-section shall be entitled to exercise any such right in respect of the land or any portion thereof if he had sublet the land or portion, as the case

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may be, to any other person during any period of his continuous occupation, unless during that period the tenant was suffering from a legal disability or physical infirmity, or if a woman, was a widow or was unmarried."

This Sir, resembles the explanation I have given and about which there has been some argument with me. This is under Section 12. But I have not been able to understand the procedure laid down in it. Section 10-A provides that when a sale takes place, for instance a sale of 200 acres, then a tenant of 2 acres can pre-empt these 200 acres. But if he has sublet the land, he cannot exercise the right of pre-emption. Suppose a person possesses 25 *bighas* of land and out of these, he has sub-let 12 *bighas*. He cannot pre-empt that land, but he can pre-empt the land which is not included in his tenancy. He cannot pre-empt the sub-let portion, but can pre-empt the remaining portion which is not included in his tenancy. May I ask why? Why is sub-letting so much deprecated? Why should the sub-tenant not be given the same concession which is given to the tenant? Why are you making such a stiff law against sub-letting.

[MR. DEPUTY-SPEAKER *in the Chair*]

The tenant and the sub-tenant should have equal rights, at least against that tenant who has become a landlord. Therefore, I would very respectfully like to know the meaning of these two sentences of this explanation and of this proviso. The hon. Home Minister may kindly explain its significance and state in what case it would apply. Of course, I can follow the case of the widows. But certainly the hon. Home Minister would not say, that just because a widow and has lost her husband, therefore she should lose this right also. I don't think he will offer this explanation. So I would like to know what this priviso and explanation means.

Now Sir, I would like to invite your attention to some amendments. The first amendment is at No. 2. Some of the amendments have a particular significance, i.e., this vertical section should be abolished and a uniform law introduced all over India. All the tenants should be given the right. Some amendments are to that effect. I would not comment upon them in detail as I have stated the principle. If you accept that principle, then these amendments would be relevant and proper, but if you do not accept the principle and the House does not accept it, then there is no need to go into them.

I have briefly spoken in regard to gardens and fallow lands. Regarding land acquisition, I had moved two amendments to the effect that during land acquisition the principles in sec. 13 of the Land Acqusition Act, 1894 should be kept in view while determining their market value. Feeling that the House may not consider the Act of 1894 to be too old, and it may or may not agree to the 15 per cent. given in it, I had tabled another amendment which suffices at Section 27 of the Pre-emption Act. There is also provision of appeal etc. in it. This is a very innocent amendment, in accepting which there should be no objection. I am one of those people who never ignore the right of the tenants and I want that we should give them all possible legal aid. At the same time, it should be generally conceded that during land acquisition everybody should be given an opportunity or concession to get the market value of his property assessed; and if necessary to appeal. Sir, I would like to remind you that people living in the Punjab are called the sword-arm of India. They generally join the Army. Now it should be realized how much injustice is being done through this Act to the people serving in the Army. They serve the country for 25 years and the reward they get is that in their absence their land is taken away. What greater injustice can there be to the people who join the Army and stake their lives for the defence of the country? It is no justice that under a tenancy occupation of twelve years the land of the people, who are in the Army, should be snatched away from them and given to their tenants. Under this Act, a concession must be provided for such people, not out of kindness but because justice demands it, so that when they are disbanded on reaching home they should not find that their land has been transferred to other people. They serve night and day and after 12 years they find their land gone. This is extreme injustice. As a matter of fact the entire law, which gives the right to acquire land in this way, is improper. I want that justice should be done. I want that there should be economic holdings in the country. The landlords who possess land in excess of their needs should be asked to surrender a portion of that, so that economic holdings can be formed and

tenants can make a suitable living. Why do you adopt a method which is likely to create unrest and discontentment in the country? A planned economy would not let anybody suffer. I want that everybody in the country should have equal opportunity. I do not want that some people should have land and money much in excess of their requirements while others are not able to subsist. I want that the entire land should be distributed in this way. When I oppose this Act, I do not oppose the principles, which have been accepted by the Congress. But if you follow the course you want to, I do not see anything but discontentment arising out of that. You are entitled to frame this law, but there must be a provision in regard to the persons who are serving in the Army, that this Act will not be used in their absence.

In the same way, just as you have made a provision for the widow, unmarried daughters and minor children of the tenants, why should the minor children, and widow etc. of the owner be excluded? They have as much right as the families of the tenants have. It is not proper to have a soft corner for one section of the people and not for the other. Therefore, this Bill should be on the sound basis of planned economy, so that it should benefit Punjab. The old Punjab Land Acquisition Act protected the rights of the tenants. I want that we should also pass a Bill which safeguards their rights. I want that there should be such a law framed in the Punjab as suitably protects the rights of tenants. But I submit that this is not the way to do it and I feel that no right-minded person would approve of the present method.

I have taken more of your time than I expected, but I was helpless, because I feel that the matter before the House is so important that the more attention we pay to it the better. Besides, many of the hon. members here come from such Provinces as are not fully conversant with conditions prevailing in the Punjab and perhaps I spoke in a language which was a bit difficult for them to understand.

Shri Gautam (Uttar Pradesh): It was a very difficult language.

Pandit Thakur Das Bhargava: I was helpless, but this was the language of a person who has made a submission to you and to the House. It is for the House to give its verdict. The State of Punjab is in great trouble; there has been no popular Government there for a long time, and if those old times still continued, we could call the present set-up as autocratic.

Shri Gautam: I referred to the use of difficult words, not to the language. For instance you used the words "*termim*" ("amendment") and "*mujare*" (sub-tenant) in your speech.

Pandit Thakur Das Bhargava: I do not know what word to use for "*termim*" and that I should use the word "tenants" for "*Mujare*". In the end, I would close by saying that this is a very important matter, and if you pass it in the present form, you will be establishing a precedent which is not found anywhere else in the country. With these words I move my amendment.

Mr. Deputy-Speaker: Resolution moved:

> "This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab Tenants (Security of Tenure) Amendment Act, 1951 laid on the Table on the 6th February, 1952 by enacting an amending Act:
>
> **Section 2**
>
> 1. That for section 2, the following be substituted, namely:—
>
> "2. *Amendment of section* 1, *Punjab Act XXII of* 1950.—Subsection 4 of section 1 of the Punjab Tenants (Security of Tenure) Act, 1950 (hereinafter referred to as the Principal Act), shall be omitted."
>
> **Section 3**
>
> 2. That for section 3, the following be substituted, namely:—
>
> "3. *Amendment of section* 2, *Punjab Act XXII of* 1950.—Clauses (3), (4) and (5) of section 2 of the Principal Act shall be omitted.
>
> 3. That in clause (i) of section 3,—
>
> (i) for the figures and word "50 and 100" the figures and word "75 and 150" be substituted, and
>
> (ii) the following be added at the end namely:—
>
> 'and the words "but in hilly areas such limit shall be deemed to be 150 and 300 Acres" shall be added at the end'.

[Mr. Deputy-Speaker]

4. That after clause (ii) of section 3, the following new clause be added, namely:—

(iii) for clause (7) the following shall be substituted, namely:—

"(7) Other terms used but not defined in this Act shall have the meanings assigned to them in the Punjab Tenancy Act of the Punjab Land Revenue Act 1887 but the term land shall not include gardens or *banjar* lands."'

Section 4

5. That for section 4, the following be substituted, namely:—

"4. *Omission of Section 3, Punjab Act XXII of 1950.*— Section 3 of the Principal Act shall be omitted."

New Section 4A

6. That after section 4, the following new section shall be inserted, namely:—

"4A. *Omission of Section 4, Punjab Act XXII of 1950.*—Section 4 of the Principal Act shall be omitted.'

Section 6

7. That section 6 be omitted.

Section 10

8. That section 10 be omitted.

9. That in section 10, the proposed new section 12A be omitted.

10. That in section 10, the proposed new section 12 be omitted.

11. That in section 10, for subsections (2), (3) (4), and (6) of the proposed new section 12B, the following be substituted, namely:—

"(2) A tenant desirous of purchasing land under sub-section (1) shall make an application in writing to the Collector and the Collector shall take proceedings to acquire the land as if the land was acquired for a public purpose and the provisions of the Land Acquisition Act (Act I of 1894) shall apply to the proceedings."

12. That in section 10, the proposed new section 12C be omitted."

लाला अचिंत राम: माननीय अध्यक्ष जी, इस ऐक्ट पर मेरे मोहतर दोस्त पंडित ठाकुर दास भार्गव ने अपने ख़यालात का इज़हार करते हुए क़रीबन डेढ़ घंटा ले लिया है, या शायद ज्यादा ही ले लिया है।

बाबू रामनारायण सिंह: आप दो घंटा ले लीजिये।

लाला अचिंत राम: मेरा ख्याल है कि इस ऐक्ट की इतनी क़ीमत नहीं है कि इस के ऊपर दस मिनट भी खर्च किया जाय। मैं समझता हूं कि यह ऐक्ट लाना दरहक़ीक़त पंजाब के किसानों पर जुल्म करना होगा और इस से कोई मुतफ़िक़ नहीं हो सकता। यह ठीक है, मैं मानता हूं कि गवर्नमेंट की ख्वाहिश होगी कि किसानों को फ़ायदा पहुंचे। मुझे प्रेज़िडेन्ट साहब के इन्टेन्शन (intention) पर कोई शक़ नहीं है और वहां के जो गवर्नर साहब हैं या ऐडमिनिस्ट्रेशन (administration) करने वाले हैं, मैं उन के इरादे पर भी शक नहीं करता, लेकिन दरहक़ीक़त मैं समझता हूं कि अगर उन का इरादा किसानों को एक रुपया नफ़ा पहुंचाने का था तो अमल में आ कर वह एक या दो आने से ज्यादा नहीं पहुंच सकता। इस वास्ते मेरे सामने इस ऐक्ट की कोई वक़त नहीं है, और इसलिये मैं इस पर बहुत ज्यादा तक़रीर नहीं करना चाहता। लेकिन अभी हमारे मोहतरम बुजुर्ग ठाकुर दास जी ने कहा कि कौन से हालात हिन्दुस्तान में बन गये हैं कि इस क़िस्म के ऐक्ट के लाने की ज़रूरत पड़ी। हालात तो बहुत बदल गये इस के कहने की ज़रूरत नहीं है। सन् १९४७ के बाद हालात बदले। मुल्क आज़ाद हुआ, हर एक किसान और ग़रीब की आशायें बढ़ीं। हर एक के दिल के अन्दर ख्याल पैदा हुआ कि हमारी हालत अच्छी होगी। हम खुशहाल होंगे। जिस ज़मीन पर हम काश्त करते हैं

हम उस के मालिक बनेंगे। किसानों की आशायें तो बहुत ही बढ़ गईं। वह ख्याल करते थे कि कांग्रेस ने जब एलेक्शन (election) लड़ा तो इस मामले को बार बार दोहराया कि ज़मीन का मालिक कौन है। ज़मीनों के मालिक वह होते हैं जो काश्त करते हैं। यह नारा लगाया गया। देश के एक सिरे से दूसरे सिरे तक इस चीज़ को दोहराया गया, और मैं कहता हूं कि कांग्रेस इसी नारे की वजह से पावर (power) में आई। किसान तो इस बात की उम्मीद में थे कि शायद अब वह ज़मीन जो वह बोता है उसे मिलेगी, उस के वह मालिक बनेंगे। लेकिन हालत क्या बनी ? पंजाब की ऐसेम्बली (Assembly) में कौन सी चीज़ पहले बनी। उस के अन्दर बड़े बड़े ज़मींदार आये। उन का फ़ायदा इस में नहीं था कि ऐसे रेज़ोल्यूशन (resolution) पेश करें जिस से किसानों को फ़ायदा हो। उन का काम किसानों को सुखी बनाना नहीं था। लेकिन पार्टिशन (partition) के बाद, आज़ादी के बाद यह हुआ कि मुल्क आज़ाद हो गया है और किसानों की आशायें बढ़ीं। लेकिन बाद में इसी गवर्नमेंट ने फ़ैसला किया कि तुम ज्यादा उम्मीद मत करो। अभी तुम्हारा कुछ बनने वाला नहीं है। मुल्क की हालत ऐसी है कि तुम ज़मीन के मालिक नहीं बन सकते। उत्तर प्रदेश के अन्दर ऐसा क़ानून पास कर रहे हैं, और प्रान्तों में कर रहे हैं, लेकिन पंजाब में क्यों नहीं करते, तो कहते हैं कि पंजाब में हालात ऐसी हैं कि यह काम नहीं किया जा सकता। इस वास्ते आप को टेनेन्ट (tenant) ही रहना होगा। यह फतवा पंजाब गवर्नमेंट ने दिया और आज इस फ़तवे पर मुझे अफ़सोस है कि हमारे प्रेज़िडेन्ट साहब भी क़ायम हैं। आज यह ऐक्ट उस किसान को मालिक क़रार नहीं देता है। उसे टेनेन्ट का टेनेन्ट ही क़रार देता है। उस के बन्धन काटने की कोशिश की गई है लेकिन बहुत थोड़ी, है कि फिर भी वह टेनेन्ट्स ही हैं। यह काम हमारा है, जो आखिरकार सेवक हैं, कांग्रेसी हैं, उन का काम है कि वह यह कोशिश करें कि लोग गवर्नमेंट पर यक़ीन लायें और यह कहें कि जो कुछ गवर्नमेंट आज नहीं कर सकी है वह कल करेगी। फिलहाल तुम चिंतित न हो। अब यह ऐक्ट बनने वाला है, क़ानून बनने वाला है। खैर खुदा खुदा कर के २४ दिसम्बर को क़ानून आया और उस के अन्दर उन को टेनेन्ट क़रार दिया गया। क़ानून क्या था ? इस क़ानून के पहले अल्फ़ाज़ यह थे : ऐक्ट टु ऐमेण्ड दि पंजाब टेनेन्सी ऐक्ट, १९५०, (सिक्योरिटी आफ़ टेन्योर) [Act to amend the Punjab Tenancy Act, 1950 (security of tenure)] टेन्योर की सिक्योरिटी है। तो इस ऐक्ट को पढ़ कर यह ख्याल खास कर न किया जाय कि इस में कोई बुराई है, लेकिन इसमें एक ऐसी चीज़ है जिस को बहुत लोग नहीं समझ सकते हैं और जिस वक्त यह ऐक्ट आया, उस के आने से पहले बहुत चीज़ें खत्म हो चुकी हैं। उस के आने से जो सिक्योरिटी (security) थी वह इन-सिक्योरटी(insecurity) हो गई है। आप हैरान होंगे कि इनसिक्योरिटी हो गई, यह कैसे ? बात ऐसी है। जैसे एक पिंजरा है। उस के अन्दर कबूतरों को पकड़ना है। यदि पहले ताली बजा दी जावे तो कबूतर उड़ जावेंगे। यहां ऐसा ही हुआ। हालत यह है कि यह ऐक्ट इस लिए बना कि किसान की सिक्योरिटी बने। बात क्या थी ? सिर्फ़ जो बड़े बड़े ज़मींदार हैं वह हर साल के साल किसानों को निकाल देते थे और किसान उन की खुशामद करते थे। ज़रूरत थी कि किसान को सिक्योरिटी मिले। वह महसूस करे कि मैं अब सिक्योर (secure) हूं,

[लाला अचित राम]

अब में काश्त कर सकता हूं। फ़ार्मूला (formula) क्या था ? अगर कोई आदमी दो हज़ार एकड़ का मालिक है उस को एक सौ एकड़ दे दिया जाय । लेकिन बाक़ी जो १९०० एकड़ है वहां पांच साल बैठ सके । यह एक फ़ार्मूला था। यह बनता है २४ दिसम्बर, १९५१ को । जितने बड़े बड़े ज़मींदार थे उन्होंने अपनी ज़मीनें तक़सीम कर दीं । जिस के दो हज़ार एकड़ थे उस दो हज़ार एकड़ ज़मीन को रिश्तेदारों के नाम कर दिया ताकि ज़द में न आयें। १०० एकड़ से ज्यादा ज़मीन पर किसान क़ाबिज़ रह सकता है, इस वास्ते इस ऐक्ट के नाफ़िज़ होने के पहले पहले जितने ज़मींदार थे उन्होंने अपनी ज़मीन को तक़सीम कर दिया और नाम कर दिया अपने रिश्तेदारों के । अब इस ऐक्ट से मालगुज़ारों को फ़ायदा हुआ कि उन का काम बन गया । यह इस तरह हुआ कि जो तीन भाई थे उन के नाम कर दिया । छोटे बच्चे थे, पांच या छः साल के उन के नाम कर दिया क्योंकि मक़सद था इस क़ानून के मक़सद को forfeit करना । यह मक़सद है जिस से आप देख सकते हैं कि इस ऐक्ट के लाने से किसानों का फ़ायदा हुआ या नुक़सान । मंशा आप का साफ़ है । आप के अन्दर नेकनियती है, आप का काम तो खत्म हो चुका है । आदमी ज़मींदार हो गये हैं, जिन के पास १९०० एकड़ ज़मीन है उस में से थोड़ी सी भी ज़मीन टेनेन्ट्स के पास नहीं जा सकती । पंजाब के अन्दर जो इस वक्त हवा फैली है वह यह है कि बड़े ज़ोर के साथ ट्रैक्टर आ रहे हैं, वह ट्रैक्टर्स से काश्त करेंगे । टेनेन्ट्स जो हैं उन को सिक्योरिटी कोई नहीं है, वह वहां से भी निकला और यहां से भी क्योंकि ट्रैक्टर आ गये हैं, हज़ारों ट्रैक्टर पंजाब में आ गये हैं ट्रैक्टर के माने यह हैं कि टेनेण्ट बेकार । यह जो ऐक्ट आ रहा है यह सिक्योरिटी ऐक्ट नहीं है बल्कि असल मानों में इनसिक्योरिटी ऐक्ट है । पहले लोगों को डर नहीं था क्योंकि ज़मीन वैसे तो बटेगी नहीं । ज़मींदार खामोश बैठे थे अब ट्रैक्टर से अनाज ज़रूर पैदा होगा । उन्होंने १०० एकड़ का इन्तज़ाम कर लिया है और बाकी ट्रैक्टर के नीचे लाये । तो ट्रैक्टर आने से बजाय सिक्योरिटी के इनसिक्योरिटी हो गई । जब तक आप इस के अन्दर ऐमेंडमेंट (amendment) नहीं करेंगे यानी इस का रिट्रोस्पेक्टिव एफ़ेक्ट (retrospective effect) हटा कर यह न कर दें कि पिछले चार साल के अन्दर किसी लैंडलार्ड (landlord) ने अपनी ज़मीन को मुन्तक़िल किया हो अपनी बीवी के नाम, बेटे के नाम और खास कर नाबालिग़ के नाम तो उस का असर न हो , जब तक आप ऐसा प्रबन्ध नहीं करेंगे तब तक किसान को फ़ायदा नहीं हो सकता यह बात में अर्ज़ करना चाहता हूं । मैं समझता हूं कि आप के दिल के अन्दर दर्द है । पंडित जवाहरलाल नेहरू के दिल की यह बात है कि किसानों को फ़ायदा पहुंचे । लेकिन ऐसी सूरत में ऐक्ट लाने से फ़ायदा नहीं पहुंचेगा और साथ ही जब तक आप यह शर्तें न लगायेंगे जैसी कि बम्बई में मालगुज़ारों के लिए हैं कि कोई भी ज़मींदार अपने पास दो सौ एकड़ से ज्यादा ज़मीन नहीं रख सकेगा जिससे कि वह ट्रैक्टर से काश्त कर सके, तब तक आप का काम चलने वाला नहीं है और न काश्तकारों का ही फ़ायदा होगा । उन्होंने इस बात को बार बार कहा । वह तो ज़मींदारी एबोलीशन (*Zamindari abolition*) के हक़ में थे । मैं हैरान था । एक तरफ़ उन की तरमीमात को पढ़ कर देखिये और बाद में मतलब निकालिये कि उन का क्या मतलब है ? बिल में डेढ़ आना देने की कोशिश हो रही है । लेकिन अगर इन तरमीमात के साथ

उस को पास किया जायगा तो वह डेढ़ आना भी खत्म हो जायगा । मुझे एक मिसाल याद आती है । एक कांच की चूड़ियां बेचने वाला था वह अपनी टोकरी लेकर बैठा था । एक आदमी आया और उस को ठोकर लगा कर पूछा कि इस में क्या है ? उस ने जवाब दिया कि इस में अगर एक ठोकर और लग जाय तो कुछ नहीं रहेगा । एक ठोकर तो आप ने लगा दी, एक और लगा दीजिये तो फिर कुछ नहीं रहेगा । एक ठोकर तो गवर्नमेंट ने लगा दी है कि चार साल के बाद ऐक्ट बनाया है और बहुत सारे किसान नाकाम हो चुके हैं, और अगर ठाकुर दास जी की तरमीमों की एक और ठोकर लगा दी गई तो यह खत्म हो जायगा । मैं उम्मीद करता हूं कि हाउस इस बात का लिहाज रखेगा । आप जो पास करना चाहें कर दीजिये । लैजिस्लेटिव असेम्बली (Legislative Assembly) आ रही है वह उस में तरमीम कर देगी । मैं ने इस बारे में एक तरमीम दी है कि जिस आदमी को ज़मीन मिले उस को पानी भी मिले । मैं देहात में गया और मैं ने देखा कि ज़मींदार क्या करते हैं । वह पांच साल के लिए मजबूर हैं । वह ज़मीन देते हैं । लेकिन उस के साथ पानी नहीं देते ताकि तंग आ कर टेनेन्ट ज़मीन छोड़ कर चला जाय । बाबू ठाकुर दास जी से भी मेरी इस बारे में बात हुई । वह भी इस को क़बूल करते हैं । बाक़ी मेरा कहना यह है कि टेक करेज इन योर हैंड्स (Take courage in your hands) । अगर आप को किसानों से हमदर्दी है तो जो तरमीमें मैं ने पेश की हैं उनको मंजूर कीजिये जिस से किसानों का हित हो और जिस से किसान भी यह समझें कि आप उन का फ़ायदा करना चाहते हैं ।

(English translation of the above speech)

Lala Achint Ram (Punjab): Sir, my hon. friend Pandit Thakur Das Bhargava has taken about an hour and a half or perhaps more.

Babu Ramnarayan Singh (Bihar): You may take two hours.

Lala Achint Ram: I suppose it is not worth even ten minutes' deliberation. I am of the opinion that it is sheer injustice to the tenants of the Punjab to put up such a measure and I hope nobody will be a party to it. I confess that it might be the desire of the Government to benefit the peasantry of Panjab and that is a good idea. I have no doubt with regard to the good intentions of the Government, neither do I doubt the sincerity of the Governor or the administration of that State. But as a matter of fact, I feel that if they want to benefit the peasantry of that State to the tune of one rupee, in practice it would not exceed one or two annas even. That is why it has not any significance in my eyes and so I do not want to speak long on this Act. My hon. friend Thakur Das ji has asked whether conditions in India have changed in any way so as to necessitate the introduction of this Act. I would like to tell him that conditions have of course changed and it is not at all necessary to narrate them here. Conditions have changed after the year 1947. The country became independent, a new hope came to peasantry and the poor masses. Everybody began to think that their conditions would become better now and they would be prosperous, that the land that they cultivated will become theirs. The hopes of the peasantry increased comparatively. They reminded themselves of those days when the Congress fought elections and repeatedly declared as to whom the land would belong. 'Land to the tillers' was their slogan which was often raised. This declaration was made throughout the length and breadth of the country and I venture to say that the Congress came to power with the help of that very slogan. The tenants were under the impression that they would become the owners of the land that they tilled. But what actually happened is this. Hardly any legislation was made in the Panjab Assembly in this connection. Big *Zamindars* got an entry into the Assembly. Their interests lay in not passing such resolutions which in any way benefited the *Kisans*. It was against their interests to make the peasantry happy. After the partition, independence of the country brought in its train new hopes for the *kisans*. But some time afterwards the Government bade them not to have so many hopes. They told them that nothing was going to be done for them as yet,

[Lala Achint Ram]

as the conditions prevailing in the country were such that they could not be the owners of the land that they tilled. When the Government were passing such laws in the Uttar Pradesh and other States, why don't they do the same thing in the Panjab? The reply that we get to this question is that the conditions obtained in the Panjab are such that this cannot be done and the tenants would have to remain tenants only. This was the decision of the Panjab Government and I am sorry our President too has endorsed that decision today. This Act does not consider the tenants to be the owners of that land. It only considers them to be tenants and nothing more. Some effort has been made to break their fetters, but it is all very little. In spite of that effort they still remain tenants. It is our duty, who, after all are the servants of the people, who are the Congressmen, to try to this effect that the people would place their trust in the Government. We should tell them that if the Government could not do any particular thing today it would be done next time, and that for the time being they should not be anxious. Now this Act is going to be passed. The law came up at last on December 24 after weary waiting, and they were declared as tenants thereby. What was that law? The very first words in it were 'Act to amend the Panjab Tenancy Act, 1950 (Security of Tenure)'. That is, it relates to the security of tenure only. We should not think there is anything wrong in it. One of its peculiarities which many hon. Members may not understand, is that many things have altogether disappeared long before this Act came into existence. It has turned security into insecurity. You, Sir, would be amazed to hear these words and would ask how that happened. It is like this. If we have to lure pigeons into a cage, we must not clap as they would be scared and fly away. It happened exactly like that here as well. It was introduced for the security of the tenants. Formerly the condition was that the big *Zamindars* used to eject their tenants from their lands every year and the tenants in return used to appease them and get back the tenancy. It was needed that the *kisan* should be given security, he should feel himself secure with regard to his tenancy. What was the formula? The formula was that if any man owned two thousand acres of land, he should be given one hundred acres for his personal use and for the rest 1,900 acres he should continue his possession for five years only. This was the formula and it came into existence on December 24, 1951. The result was that all the big landlords distributed their lands among their kith and kin. Those who owned two thousand acres distributed that land among their relatives in order to save themselves from the grip of law. They distributed their lands among their relatives long before the Act actually came into force. Now, this Act has benefited the landlords inasmuch as they distributed land among themselves. They got it registered in the name of their brothers, in the name of their young children because the aim was to defeat the very objective of this Bill. Its aim was to benefit the tenants and you can see from it Sir, whether it has actually benefited the tenants or not. Its aim is obvious; I know the Government are sincere in their motives and feel that they have done their duty but they would see that even a small area of land out of 1,900 acres cannot go to tenants. There is a craze for importing as many tractors as they possibly can in the Panjab; they would cultivate their land with the help of tractors. This means that the tenant has no security. He has been thrown out from both the sides. Thousands of tractors have been imported into Panjab and this means that the tenants would be put out of work. This Act, in fact, is not a security Act but an insecurity Act. Formerly people were not afraid because the land would not be distributed. The landlords too were silent; but now foodgrains would be produced with the help of tractors. They have made arrangements for 100 acres and brought the rest under tractors. So, by importing tractors security has been changed into insecurity. Unless this Act is amended and enforced with retrospective effect, further declaring that land transfers made in the name of wife and sons, especially the minors would stand null and void, the tenant is not likely to gain anything by this Act. I understand that the Government's sympathies are with the tenants. Shri Jawaharlal Nehru feels that the tenants would benefit. But under the present circumstances the Act is not likely to benefit them. And unless the Government place restrictions on proprietors and declare that no landlord can keep more than two hundred acres of land with him for cultivation, as has been done in Bombay, all the efforts would prove futile and the tenants would not benefit in any way. Bombay did it and declared it repeatedly. They were in favour of *Zamindari* abolition. I was surprised. See the amendments and try to understand what they actually mean. You would see Sir,

that the Act contemplates to give them very minor advantages. But if the amendments are accepted those minor advantages too would go. It reminds me of a story. There was a man who used to sell glass bangles. He was sitting somewhere with a basket full of glass bangles. A man passed by and after giving a kick to the basket asked him what the basket contained. He replied that if he gave another kick to the basket it would contain nothing. In the same manner the Government have already given it a kick, and if one more is given, what would remain would be quite useless. The Government have already given it a kick by bringing this legislation after four long years and if it receives another kick in the form of the amendments moved by Thakur Das Bhargava, it would lose every thing that is of any real worth in it. I hope the House would take note of all these things. Whatever legislation the Government want to pass here in this House should be passed. A new Legislative Assembly is coming into existence in the Panjab and it may amend this Act. I have moved an amendment to the effect that anybody who is given land should be entitled to water as well. I have been to villages and I have seen what landlords do there. They are helpless for five years. They do give land but do not give water so that the tenants may leave their land in disgust and go. I talked to Pandit Thakur Dasji as well about it and he too agreed with me. My only request is 'take courage in your hands.' If the Government have any sympathy with the tenants, then my amendments should be accepted so that the kisans may benefit and feel that the Government in fact, want to benefit them.

گیانی- جی- ایس- مسافر : سبھاپتی جی میں سمجھتا ہوں کہ پنڈت جی کا یہہ کہنا ٹھیک ہی ہے کہ یہہ معاملہ کچھہ کنٹروورشل سا ہے - جہاں مفاد الگ الگ ہوں وہاں کچھ نہ کچھہ کنٹروورسی ضرور ہو جاتی ہے - میں سمجھتا ہوں کہ اس وقت جب کہ یہہ پریزیڈنٹ صاحب کا آرڈر اس پارلیامنٹ میں پیش ہو رہا ہے یہہ ایک ایسا وقت ہے کہ کم سے کم میں اس مضمون کے ساتھ پورا انصاف نہیں کر سکتا - الیکشن کی مصروفیت اور اس کے بعد کے واقعات میں مصروف رہنے کی وجہ سے میں اس پر بہت زیادہ غور نہیں کر سکا - مگر کچھہ جو اصول کی باتیں ہیں وہ میں ضرور کہنا چاہتا ہوں - پنڈت جی نے بھی اس کی مخالفت کی ہے اور لالہ اچلت رام جی نے بھی مخالفت کی ہے - مگر دونوں کے درشٹی کون الگ الگ ہیں - انہوں نے اور نقطہ خیال سے مخالفت کی ہے اور پنڈت جی نے اور نقطہ خیال سے مخالفت کی ہے - ایک بات سے میں ضرور اتفاق کرتا ہوں- ہوم منسٹر صاحب میری بات کو توجہہ سے سنیں گے کہ اتنی بات تو ٹھیک ہے کہ ۱۵ - اگست ۱۹۴۷ کے بعد جو انتقال ہوئے ہیں جب تک وہ منسوخ نہ کئے جائیں گے تب تک کسان کو بہت زیادہ فائدہ نہیں پہنچ سکتا - جیسا کہ لالہ اچلت رام جی نے فرمایا ہے چھہ اور پانچ سال کی تو بات کیا ہے - میں نے اس بات کی پڑتال کی ہے اور معلوم کیا ہے کہ چھہ چھہ مہینے اور سال سال بھر کے بچوں کے نام زمینیں لگا دی گئی ہیں - ہمارے جو بڑے زمیندار ہیں انہوں نے اس چھلجھت سے نکلنے کے لئے یہہ کیا ہے یعنی وہ سمجھتے ہیں کہ کسی نہ کسی ڈھنگ سے یہہ چھوٹ آنے والی ہے - آج نہیں تو کل یا برسوں آئے گی - جس وقت سے کانگریس کی حکومت آئی ہے اس وقت سے یہہ فکر لگی

[گیانی - جی - ایس مسافر]

تھے کہ جو بات ہم اس وقت سرکار سامنے پیش کر رہے تھے اس میں ہم کسانوں کی صحیح نمایندگی کر رہے تھے - اس وقت جو ایکٹ پاس ہوا اس سے کسانوں کو تسلی نہیں ہوئی اور پنجاب کی کانگریس کو بھی تسلی نہیں ہوئی - اس لئے وہ جھگڑا جاری رہا - اس کے بعد جو کچھ ہوا ہے اس کو میں یہاں دہرانے کی ضرورت نہیں سمجھتا - لیکن میں اس بات کو قبول کرتا ہوں کہ اس ایکٹ کے بعد جو یہہ نیا پریزیڈنٹ کا آرڈر تیا ہے ۲۴ دسمبر کو - یہ اس سے بہت بہتر ہے - لالہ اچلت رام جی نے کہا ہے کہ یہ ایک آنہ ہے - یہ جو کچھہ بھی ہے اس ایکٹ سے بہتر ہے - اس پر بھی - جیسا کہ میں نے پہلے کہا ہے میں پورے طور پر متفق نہیں ہوں - مگر میں یہہ اپنی رائے کا اظہار صاف طور پر کرتا ہوں کہ اگر پنڈت ٹھاکر داس جی کے امینڈمنٹ اس میں شامل کر دئے جاتے ہیں تو پھر یہہ کسی صورت میں بھی پبلک کے لئے قابل قبول نہیں ہو سکتا - میں نے ان کی ترامیم کا مطالعہ کیا ہے - ان کے شامل کرنے سے تو حالات کسی صورت میں بھی اچھے نہیں ہو سکتے - لالہ اچلت رام جی نے بڑے زور سے یہہ بات آپ کے سامنے رکھی ہے کہ زمینداروں نے اپنی زمین کو تقسیم کرنے کی کیا ترکیبیں کر رکھی ہیں - مگر اب اگر ان کو یہہ سہولیت دی جاتے ہوئی ہے - اس لئے اس فکر کی وجہ سے وہ کوئی نہ کوئی راستہ اس سے نکالنے کا تلاش کرتے رہتے ہیں - تو میں سمجھتا ہوں کہ اصل علاج تو تبھی ہو سکتا ہے کہ سب سے پہلے سرکار اس بات کا خیال کرے کہ ۱۵ اگست ۱۹۴۷ کے بعد جو بھی انتقال ہوئے ہیں ان کو وہ منسوخ کرے - تو اب سوچنے کی بات ہے کہ اس وقت کیا ہونا چاہیئے - میں تھوڑی سی بیک گراونڈ بتا دینا چاہتا ہوں کہ پنجاب میں جھگڑے کا کارن یہہ کسانوں کا معاملہ ہی رہا ہے - اور پنجاب اسمبلی نے جو ایکٹ سنہ ۱۹۵۰ میں پاس کیا تھا اس سے اس صوبے کے کسانوں میں شانتی پیدا نہیں ہوئی - پنڈت ٹھاکر داس صاحب ایک اچھے ایڈوکیٹ ہیں اور اس کے علاوہ وہ ایک اچھے مقرر بھی ہیں اور وہ جذبات کو بھی اپیل کر سکتے ہیں اور انہوں نے وِدوز اور شرنارتھیوں کا حوالہ دے کر آپ کے جذبات کو اپیل کی ہے - انہوں نے فرمایا ہے کہ اس میں پبلک کی رائے کا خیال نہیں کیا گیا ہے - ہاں یہہ ٹھیک ہے کہ پنجاب سرکار نے ایک حد تک پبلک کی رائے کا خیال نہیں کیا تھا - اس وقت جو کسانوں میں کام کرنے والے لوگ تھے اور جو پنجاب کی کانگریس تھی اس نے کچھہ وزولیوشن پاس کئے تھے - اتفاق سے اس وقت میں پنجاب کی کانگریس کا پریزیڈنٹ بھی تھا - اور ہم سمجھتے

ہمارے ہوم منسٹر تھے شری راج گوپالا چاری - ان کے سامنے جب اس کے متعلق باتیں ہوئی تھیں اس وقت انہوں نے بھی کہا تھا کہ اس میں کچھ اور امینڈمنٹ ہونے چاہئیں جو کسانوں کی بھلائی کی طرف جاتے ہوں -

مگر یہ سارا معاملہ کہ اس ایکٹ میں کچھ ایسی ترمیمات تو دی جائیں جو کہ اور بھی کسانوں کے لئے نقصان دہ ہوں تو یہ تو کسی صورت میں بھی کسانوں کے لئے - پنجاب کی پبلک کے لئے - قابل قبول نہیں ہو سکتا - اس واسطے میری یہ رائے ہے کہ اس آرڈر کو جس شکل میں یہ ہے میں سمجھتا ہوں کہ اسے اس وقت واپس لینا پارلیمنٹ کے لئے یا ہوم منسٹر صاحب کے لئے یا سرکار کے لئے بہت ہی مشکل ہوگا - اس واسطے میں سمجھتا ہوں کہ اسے اس شکل میں ہی یہاں بغیر کسی ترمیم کے جیسا کہ یہ پارلیمنٹ کے سامنے رکھا گیا ہے اسے پاس کر دیا جائے -

اس میں ایک دلیل میں یہ بھی دیتا ہوں کہ جلدی ہی پنجاب کی نئی اسمبلی کا اجلاس ہونے والا ہے اور پنجاب کی اسمبلی کیلئے اس دفعہ جو وہاں چناؤ ہوا ہے میں سمجھتا ہوں کہ وہ زیادہ سے زیادہ پبلک کی ریپرزنٹیٹو ہے اور اس میں اچھی طرح سے پبلک کے اور کسانوں کی جیسا کہ پنڈت جی نے تجویز کیا ہے کہ پچاس ایکڑ سے کچھ بڑھا دیا جائے یا سو ایکڑ کو تیرھہ سو کر دیا جائے - تو ان کو اور بھی زیادہ سہولیت مل جائے گی اور ان کے پاس اور بھی زیادہ زمین آ جائے گی - بلکہ میں تو یہہ رائے رکھتا ہوں کہ پچاس سٹینڈرڈ ایکڑ سے بھی کم ہونی چاہیئے اور سو اوورڈنری ایکڑ سے بھی کم ہونی چاہیئے- ایک ترمیم پنڈت جی نے یہہ کی ہے کہ جو پہاڑی علاقے ہیں ان میں کچھہ زمین بڑھائی جائے - پنجاب کے پہاڑی علاقہ کی جو کانگریس ہے اس کے کام کرنے والوں کی اور دوسرے پبلک میں کام کرنے والوں کی رائے میرے پاس موجود ہے - انہوں نے بڑے زور سے اپنے پرستاو پاس کرکے بھیجے ہیں کہ پہاڑی علاقہ میں تو ایک زمیندار زیادہ زمین کے ساتھہ پورے طور پر انصاف نہیں کر سکتا یعنی اگر میدان میں ۵۰ ایکڑ ہو تو پہاڑی علاقہ میں ۲۵ ایکڑ ہونا چاہیئے تاکہ وہ زمین کے ساتھہ پورے طور پر انصاف کر سکے - اس لئے میں سمجھتا ہوں کہ اگر پنڈت ٹھاکر داس جی کے امینڈمنٹ کے ساتھہ یہہ آرڈر اس پارلیامنٹ میں پاس کیا جائیگا تو جو نئی پنجاب اسمبلی آنے والی ہے اس کو یہہ کسی صورت میں بھی قابل قبول نہیں ہوگا- اس خطرے کا اظہار پنڈت ٹھاکر داس جی نے بھی کیا ہے - جناب ہوم منسٹر صاحب - آپ سے پہلے جو

تو بالکل اس کی الٹی بات ہے - جب الیکشن کے دن نزدیک آ رہے تھے تو ہماری سرکار ہند نے جو پنجاب کانگریس کی بنی ہوئی وزارت تھی اس کو معطل کر دیا - وہ کانگریس کی وزارت تھی - تو میں سمجھتا ہوں کہ اگر سرکار ہند کو تھوڑا سا بھی الیکشن کا خیال ہوتا یا کوئی الیکشن اسٹنٹ وہ کرنا چاہتی تو اس وقت وہ کبھی بھی اس کانگریس کی وزارت کو نہیں ہٹاتی - کیونکہ لوگوں کا یہ کہنا قدرتی تھا کہ کانگریس والے ایسے ہی ہوتے ہیں جیسے کہ پہلے تھے اور سرکار ہند کو ان کی وزارت کو توڑنا پڑا - اب اگر آگے بھی کانگریس والے ہی آئینگے تو اس قسم کے ہونگے - اس واسطے ہم کانگریس کو ووٹ دینے کو تیار نہیں ہیں - تو اگر یہ تھوڑا سا بھی خیال ہماری سرکار کو ہوتا کہ وہ اس قسم کا کوئی الیکشن اسٹنٹ ایسے موقع پر کھڑا کرے تو وہ کبھی بھی ایسی بات نہیں کرتی جس سے کانگریس کی اس طرح کی چرچہ ہو - ہم لوگ کانگریس والے جب فیلڈ میں لوگوں سے ووٹ مانگنے کو گئے تو لوگوں نے کہا کہ تم کانگریس والے اچھے ہوتے تو تمہاری کانگریس کی وزارت کو سرکار ہند کیوں توڑ دیتی - ہم نے اس کا جو کچھ جواب دے سکتے تھے دیا - تو میرا مطلب اس بات کو لانے کا یہ ہے کہ یہ جو ۴۲

[گھاٹی - جی - ایس مسافر]

کے بھاری تعداد میں ریزنلیٹو آئے ہیں - وہ یقیناً بہت اچھی طرح سوچ سکینگے اور وہ اپنے حالات کے مطابق اس میں امنڈمنٹس یا جیسی شکل دینا چاہینگے دے کر پاس کر سکینگے -

پنڈت ٹھاکر داس جی نے ایک بات، پارلیمنٹ کے آج کے اجلاس میں کہی ہے - میں بڑے ادب کے ساتھ ان کی بات سے اختلاف کرتا ہوں - انہوں نے فرمایا ہے کہ یہ ۲۴ دسمبر سنہ ۱۹۵۱ کو جو پریسیڈنٹ کا آرڈر شایع ہوا وہ نہیں ہونا چاہیئے تھا - کیونکہ لوگ باتیں کرتے ہیں کہ یہ ایک الیکشن اسٹنٹ ہے - اس کی وجہ سے کچھ کانگریس کی بدنامی ہوئی - میں سمجھتا ہوں کہ اس کے شایع ہونے سے کانگریس کی بدنامی نہیں ہوئی - اگر کچھ لوگوں نے بدنامی کی ہے تو اسے پبلک نے مانا نہیں - اس کا بڑا ثبوت یہ ہے کہ ٹھاکر داس جی خود کانگریس کے ٹکٹ پر تھے اور بڑی بھاری میجارٹی سے کامیاب ہو کر آئے ہیں - تو اس کا مطلب یہ ہے کہ، اگر کانگریس پر کسی حصہ سے یہ دوش لگایا گیا ہے کہ یہ ۲۴ دسمبر کا آرڈر جو مزارع کے متعلق پاس کیا ہے اس سے سرکار یا سرکار کے ساتھ تعلق رکھنے والی جماعتوں کو سہولیت ہوئی ہو یہ بات غلط ہے - بلکہ میں سمجھتا ہوں کہ یہ

آڑ لے کر - آرمی والوں کی آڑ لے کر - یا شرنارتھی بھائیوں کی آڑ لے کر - کوئی بات نہیں کرنی چاہئے - اور میری یہ بہت اسپشٹ رائے ہے جس کو میں دھرانا ہوں کہ فی‌الحال اس آرڈر کو اس شکل میں پاس کر دیا جائے -

جہاں تک شرنارتھیوں کی بات کا سوال ہے اس میں میں اور میرے ساتھی ہمیشہ کافی دلچسپی لیتے رہے ہیں - اور پنجاب میں تو ہمارے ریپریزینٹیٹو ن کے منسٹر جو وقتاً فوقتاً بدلتے رہے ہیں وہ بھی زیادہ شرنارتھی تھے اور پنجاب سرکار میں باقی منسٹروں میں بھی شرنارتھیوں کی تعداد ہمیشہ زیادہ رہی ہے - شرنارتھیوں کا سوال سامنے آتا رہا ہے - جن شرنارتھی زمینداروں کو یہاں زمینیں ملینگی تو وہ اگر خود کاشت نہیں کر سکینگے - مزارعوں کو ہٹا نہیں سکینگے - تو ان کے لئے بڑی تکلیف پیش آویگی - تو اس کا علاج یہ سوچا گیا تھا کہ جو بہت سی زمینیں ایسی پڑی ہیں کہ جہاں مزارعوں کا کام نہیں ہے - ایسے لوگ بھی زمین چھوڑ کر گئے ہیں ان کی بھی وہاں احتیاط کی جائے کہ انہیں زمینیں وہاں الاٹ کی جائیں جن پر شرنارتھیوں کو فوراً قبضہ مل سکے - مگر جو شرنارتھی بڑے بڑے لینڈ لارڈ تھے جن کو کہ زمینیں ہمی ہیں ان کے متعلق تو کوئی زیادہ

دسمبر کا آرڈر پریسیڈنٹ کا شایع ہوا ہے اس میں کوئی الیکشن اسٹنٹ کا سوال نہیں ہے اور میں سمجھتا ہوں کہ اس سے کوئی بدنامی نہیں ہوئی ہے - بلکہ میں سمجھتا ہوں کہ یہ ایک صحیح قدم تھا جو کہ اٹھانا بڑا ضروری تھا - کیونکہ یہ جو مزارع کا معاملہ تھا یہ ایک بڑی طول پکڑ گیا تھا - بہت کچھ اس نے حالات خراب کر دئے تھے - اس لئے اس کی جگہہ کچھ نہ کچھ آنا تھا - تو میں نے جب اس آرڈر کو پڑھا تو چونکہ مجھ پر - میرے دماغ پر - پنجاب اسمبلی کے ایکٹ کا کچھ اثر تھا تو جب ان کو ملا کر پڑھا تو یہ مجھے بہت اچھا نظر آیا - اس لئے میں نے اس وقت کے ہوم منسٹر صاحب کے پاس اپنی رائے دے دی تھی کہ یہ اس سے بہت اچھا ہے - اس سے ہماری کسی حد تک تسلی ہو جاتی ہے - بنیادی بات تو جیسا میں پہلے عرض کر چکا ہوں میں یہ سمجھتا ہوں وہ تو یہ ہے کہ ۱۵ اگست سنہ ۱۹۴۷ کے بعد کے انتقال منسوخ کئے جائیں - موجودہ حالت میں یہ جو ۲۴ دسمبر ۱۹۵۱ کا زیر بحث ایکٹ ہے اس میں جو کچھ رکھا گیا ہے وہ پہلے جو پنجاب سرکار کا ۱۹۵۰ کا ایکٹ ہے اس سے یہ بہت اچھا ہے - اس واسطے میں سمجھتا ہوں کہ اس وقت کوئی بھی آڑ لے کر - یعنی ودھوا عورتوں کی آڑ لے کر - یتیم بچوں کی

[گیانی - جی - ایس - مسافر]

سوال اتنا سوچنے کا نہیں آویگا کیونکہ جو مزارع ہیں ان کے ساتھ اچھی طرح سے صلاح مشورہ کے ساتھ ایسی بات کر سکتے ہیں کہ وہ اپنے ان مزارعوں کو قائم بھی رکھ سکیں -

اس لئے میں سمجھتا ہوں کہ یہ جو دوسری باتیں ہیں ان کا کوئی نہ کوئی علاج سوچا جا سکتا ہے - ایک اصول کے طور پر اس بات کو مان لینا چاہئے کہ اس وقت مزارعوں کے لئے ٹینیلنٹس کیلئے کچھ نہ کچھ ایسا مناسب انتظام کرنا ہی پڑیگا جس سے ان کی تسلی ہو - اگر ایسا نہیں کرینگے تو اس میں سرکار کی بہت بدنامی ہوگی - تو میں اس ہاؤس کے سامنے یہ عرض کرتا ہوں کہ یہ جو پریسیڈنٹ صاحب کا آرڈر ہے اسے اسی شکل میں پاس کر دیا جائے اور اس کے علاوہ جو باقی کمیاں ہیں ان کو دور کرنا ہو تو نئی پنجاب اسمبلی ان کو دور کر دیگی -

ایک بات پنڈت جی نے یہ فرمائی ہے کہ پنجاب میں عموماً جو زمیندار ہیں وہ چھوٹے ہیں - بڑے زمیندار کم ہیں - تو میں سمجھتا ہوں کہ اس طرح بھی میری جو دلیل ہے اس کی تائید ہوتی ہے کہ تھوڑے سے جو بڑے زمیندار ہیں ان کے فائدہ کی سوچنے کے بجائے ہم چھوٹے چھوٹے زمینداروں کی بابت سوچینگے تو اس میں عوام کی بھلائی آ جائے گی - جیسا میں نے شروع میں کہا تھا کہ اس وقت ایسے حالات ہیں کہ میرے پاس پورے فیگرس نہیں ہیں - مگر ہم مطالعہ کرینگے تو پتہ لگیگا کہ یہ جو اتنے ایکڑ مقرر کئے جائیں تو اس سے چھوٹے چھوٹے زمینداروں پر زیادہ اثر نہیں ہوگا - بھاری تعداد میں ایسے چھوٹے زمیندار ہم کو ملینگے کہ جن کے پاس زمین ہے ہی اتنی جتنی کہ ہم اس ایکٹ میں پرووائڈ کر رہے ہیں - اسلئے انہیں اس میں کوئی اتنا دکھ اور تکلیف نہیں ہوگی اور ہمارا کام جو ہے وہ ٹھیک طور پر چل جائے گا -

ان الفاظ کے ساتھ میں اپنی تقریر ختم کرتا ہوں -

(English translation of the above speech)

Giani G. S. Musafir (Punjab): Sir, I agree with Panditji that this issue is a bit controversial. Where interests clash something like a controversy is bound to arise. I feel that the President's Order has been placed before the House at such a time that I cannot do full justice to the subject on which I have taken the floor. I have not been able to devote much attention to this question due to my preoccupation with the elections and the events following thereafter. But I would like to point out certain things about the principles involved. Both Pandit Thakur Das Bhargava and Lala Achint Ram have opposed the Act, though from different points of view. I agree with one point and I hope that the hon. Minister for Home Affairs will pay attention to it, and that is that the tenants cannot appreciably benefit unless all the transfers effected after 15th August, 1947, are cancelled. As Lala Achint Ram pointed out, not to speak of five or six years, I have found through enquiry that landlords have transferred their land to their sons after a year or

a half. That is the way out, the big landlords have adopted. It means that they realise that somehow or the other this thing is bound to come up now or later. They have been anxious to find a way out since the Congress took up the reins of power. I am of the opinion that the real solution of the problem is possible only after the Government sees to it that all transfers of land effected after 15th August, 1947 are cancelled. We have to think as to what should be done at this juncture. As to the background of this problem I may mention that the agrarian question has been at the root of all troubles in the Punjab. The Act passed by the Punjab Assembly in 1950 did nothing to pacify the tillers in the Punjab. Pandit Thakur Das Bhargava is a good advocate, an eloquent orator and can appeal to sentiments. He has appealed to yours in the name of widows and displaced persons. He has said that the Punjab Government has ignored public opinion while passing that Act. It is true that the Punjab Government ignored public opinion to some extent. Those working among the *kisans*, and the Punjab Congress had passed certain resolutions. I happened to be the President of the Punjab Congress at that time. We thought that we were representing the *kisans* truly when we put forward our proposals before the State Government. The Act passed at that time satisfied neither the *kisans* nor the Punjab Congress. So the trouble continued. It is not necessary to recapitulate what has happened afterwards. But I agree that the President's Order of the 24th December is better than the Act. Lala Achint Ram has expressed the view that the order represented a small percentage of what ought to have been done. Whatever it is, I believe, it is better than the Act, though I do not fully agree to it, as I have already stated. I want to state it clearly that if Pandit Thakur Das Bhargava's amendments are incorporated, it cannot be acceptable to the public. I have studied his amendments and don't think that their inclusion can remedy the situation in any way. Lala Achint Ram has forcefully described how the landlords adopt various devices in order to divide land into many portions. But if the limit of ownership is increased from 50 acres to a bit more or is increased from 100 to 150 acres, the landlords will have more land. I feel that the limit should be less than 50 standard acres or one hundred ordinary acres. One amendment moved by Pandit Thakur Das Bhargava is to the effect that in hilly tracts, the limit of ownership of land should be increased. I know the feelings of the Congress and other public workers in the hilly tracts of the Punjab on this matter. They have passed resolutions stating that a landlord in a hilly tract cannot appropriately cultivate a large holdings, that is if the limit in the plains is 50 acres, it should be 25 in the hills, so that the landowner may be able to do justice to it. In view of this, if the President's order is passed by the House together with the amendments moved by Pandit Thakur Das Bhargava, I am afraid the new Legislative Assembly in the Punjab would not find it acceptable in any case. This fear has been expressed by Pandit Thakur Das Bhargava also. I may remind the hon. Minister for Home Affairs that his predecessor, Shri Rajagopalachari expressed this opinion, during our consultations with him, that certain amendments in the Act for the benefit of the *kisans* were necessary. But making certain amendments more harmful to the *kisans* cannot be acceptable to the *kisans* or to the general public in the Punjab. In my opinion it would be very difficult to withdraw this order as it is, at this juncture, both for the House and the hon. Minister for Home Affairs or the Government. So I would suggest that the order be passed as introduced, without amending it.

In this connection it may be argued that the new Assembly of the Punjab is to meet shortly and I think that as a result of recent elections it is composed of people who represent the people to the fullest extent; there are many representatives of the *kisans* also. They will be in a better position to go over the whole question and carry out amendments or change it as circumstances permit.

I respectfully beg to differ with the remark made by Pandit Thakur Das Bhargava in the House today that the Order of the President published on the 24th December, 1951 should not have been issued, because people considered it to be an election stunt, resulting in giving a bad name to the Congress. I do not think that the Congress has come to disrepute due to this Order. If some interested persons have villified the Congress, the people at large have not given any heed to it. As a sound proof of this, I may mention the election of Pandit Thakur Das Bhargava himself on Congress ticket, with a big lead over his opponents. If certain circles have alleged that the Order of 24th December, 1951, regarding tenants has resulted in giving the Government or organisation connected with it some facilities, they are wrong. On the other hand I feel that facts prove quite the contrary. The Government of

[Giani G. S. Musafir]

India suspended the Congress Ministry in the Punjab on the eve of elections. If the Government of India had an eye on election gains or if they had intended any stunt, they would not have suspended the Punjab Ministry. It was natural for the people to contend that Congressmen were the same as ever and that the Central Government had to suspend the Punjab Ministry, "So", went the argument, "if the same type of Congressmen are to be elected again, we shall not vote for the Congress". Had the Government thought of any stunt at the time, they would not have acted in such a manner, as to arouse so much of talk about the Congress. When we Congressmen went to the people to ask for their votes, they countered us with the argument that had we been good Congressmen the Government of India would not have suspended this Congress Ministry in the Punjab. We rebutted it as well as we could. I have related all this to show that the question of a stunt does not arise at all, as far as the President's order of 24th December is concerned and that the Congress has not lost any prestige. I feel that it was a correct step and had to be taken, because the tenant problem was a very long standing one and had resulted in deterioration of the situation. Something or the other had to be done in order to solve it. When I read the order, I had the Act passed by the Punjab Assembly at the back of my mind. When I studied it in conjunction with the said Act, I found it to be quite good. I had expressed my opinion to the then Minister for Home Affairs, saying that it was a better Act, and satisfied our aspiration to some extent. The fundamental question, as I have already pointed out is that all transfers effected after the 15th of August 1947 should be cancelled. Under the present circumstances the Act (of 24th December, 1951) under discussion is better than the one passed by the Punjab Assembly in 1950. In view of this I feel that we should not say anything against it, in the name of widows, orphans, ex-army men, displaced persons or others. It is my definite opinion and I repeat it that the House should pass the order as it is.

As far as the refugee problem is concerned my friends and I have always been interested in it. In the Punjab, the Rehabilitation portfolio has been held mostly by those who have been displaced persons themselves. Most of the other Ministers in the Punjab Cabinet were also displaced persons. The problem of displaced persons has always been in the foreground. It was contended that if the displaced landowners allotted land in the Punjab, were not in a position either to cultivate it themselves or to eject the tenants, they would be facing a big difficulty. The remedy suggested for this was that displaced landowners should be allotted such land where there were no tenants and which had been left by evacuees so that they might get possession immediately. But this problem would not arise as far as big displaced landlords are concerned, as they can consult the tenants and arrange to retain them.

I think that a way can be found to deal with all other things. We have to agree to the principle that such arrangement should be made as to satisfy the tenants. Failure to do this would bring the Government to disrepute. So I appeal to the House to pass the President's order as introduced. The defects, if any, may be removed by the new Assembly of the Punjab.

Pandit Thakur Das Bhargava has remarked that the majority of landowners in the Punjab have small holdings, the number of big landlords is limited. This also bears out the truth of what I say and that is that instead of worrying about the welfare of a few big landlords we should think about the welfare of small landholders, which will include the welfare of the people at large. As I stated in the beginning—I don't have figures with me now, but if we study them we will know—that to limit ownership to a certain number of acres, would not appreciably affect the small land owners. We will find that those having lands equal to that stipulated in the limit of ownership, are in a majority. They will not come to any harm and our purpose will be served.

With these words Sir, I beg to resume my seat.

श्री गौतम: डिप्टी स्पीकर साहब, यह जो प्रेजीडेंट साहब ने २४ दिसम्बर १९५१ को एक क़ानून बनाया वह उस बड़ी भारी कमी को, जो कांग्रेस और कांग्रेस गवर्नमेंटों ने बड़ी ऊंची आवाज़ से दुनिया के सामने रखी थी, उस को जब वे पूरा नहीं कर सके तो उस परेशानी को दूर करने के लिए और उस जुल्म को खत्म करने के लिए, जो किसानों पर होता चला आया था, दूर करने

के लिए एक छोटा सा क़दम उठाया । प्रेजीडेंट साहब ने यह समझ कर कि वह एक आरज़ी गवर्नमेंट है, और यह कि वह एक नुमायन्दा जमात के हाथ में क़ानून को बनाने का ताक़त दे चुके थे, इसलिए उन्होंने बहुत थोड़ी बातें इस तरह की कीं जो कि फ़ौरन करने की ज़रूरत थी । यही एक ऐक्सप्लेनेशन (explanation) हो सकता है इस ऐक्ट को आज लाने का और इस के बहुत कम दूर जाने का । जिस चीज़ के लिए हम वर्षों से चिल्लाते आ रहे हैं अर्थात् ज़मींदारी को खत्म करने की बात हम बीसियों वर्ष से करते चले आये हैं । देश की गवर्नमेंट हमारे अपने हाथ में आई, स्वराज्य आया, देश का विधान बनाने की ताक़त हमारे हाथ में आई, लेकिन हम को अफ़सोस है इस बात का कि अभी तक हम अपने इस उद्देश्य को पूरा नहीं कर सके और ज़मींदारी प्रथा का अन्त नहीं कर पाये । हम इस को इसलिये पूरा नहीं कर सके कि जो कांस्टीट्यूशन बनाया गया, उस में कुछ ऐसी दिक्क़तें पेश आई हैं, उस में कुछ ऐसी बातें दर्ज कर दी गई हैं जो नहीं होनी चाहिये थीं । मसलन दफ़ा १९ एफ़ जो कांस्टीट्यूशन में मौजूद है जिस में लिखा है :

"That all citizens shall have the right to acquire, hold and dispose of property."

उस के लिए मैं ने तरमीम पेश की थी, संशोधन पेश किया, कि इस को उड़ा दिया जाय । अगर यह क्लाज़ फंडामेंटल राइट्स (fundamental rights) में दर्ज नहीं होता और उस के आगे जो प्रापर्टी क्लाज़ है, वह भी न होता, तो मैं आप से कहता हूं कि यह कांस्टीट्यूशन एक मुनासिब और सही मानों में डेमोक्रेटिक (democratic) विधान होता । जो दिक्क़तें हम को अब तक आ रही हैं उन को देखते हुए मैं समझता हूं कि कांस्टीट्यूशन बनाते वक़्त हम सब लोगों ने, जिस में हमारे सब लीडरान शामिल हैं, न बलाज़ेज़ को रख कर बड़ी भारी ग़लती की । इसलिये मैं समझता हूं कि इस की दुहाई देना कि प्रापर्टी को ऐक्वायर करने का, होल्ड करने का और डिस्पोज़ करने का, अनलिमिटिड राइट (unlimited right) है, उस बेसिस पर किसी एक ऐसे क़ानून को जो ग़रीब आदमियों को जो अपनी मेहनत से न सिर्फ़ अपना गुज़ारा करते हैं बल्कि दुनिया को कमा कर खिलाते हैं और दुनिया का पेट भरते हैं, उस के ज़रिये कुछ सहूलियतें पहुंचायी जायं, तो उस क़ानून का इस आधार पर विरोध करना मैं बिलकुल ग़लत समझता हूं । फिर भी मैं तो यह चाहता हूं कि पंजाब असेम्बली जितनी जल्द हो सके अपना काम शुरू करे और एक क़ानून पास करे कि जो ज़मीन जोतता है वह ज़मीन का मालिक होगा, उस के हाथ में ज़मीन होगी और एक ऐसे शख़्स को जो दूसरे से अपनी ज़मीन जुतवाता है उस को उस ज़मीन की पैदावार से आमदनी पैदा करने का अधिकार नहीं होना चाहिये । आज हम मालिक उन लोगों को कहते हैं जिन के हाथ में ज़मीन है, और उन लोगों का ज़रा भी ख़याल नहीं करना चाहते, जो वाक़ई अपने ख़ून से, ख़ून पसीना बहा कर, ज़मीन जोतते हैं, हल चलाते हैं और भूखे रहते हैं, नंगे रहते हैं और मुसीबत उठाते हैं । उन के ऊपर अगर कुछ ज़ुल्म होता है तो उन का कोई ख़याल नहीं करना चाहते । मैं पंडित ठाकुर दास भार्गव की वैसे बहुत इज़्ज़त करता हूं, लेकिन जो दलीलें इस ऐक्ट के ख़िलाफ़ उन्होंने दी हैं और जिस ज़हनियत का उन्होंने इज़हार किया है मैं समझता हूं कि वह ग़लत ज़हनियत है । इस ज़हनियत से जो ग़रीब किसान हैं उन का भला नहीं हो सकता । इसलिए मैं चाहता हूं कि पंडित जी इन सब तरमीमों को वापिस लें और यह जो प्रेज़ीडेंट साहब का क़ानून है उस को

[श्री गौतम]

हम सिर्फ़ इसलिए पास कर दें क्योंकि यह आरज़ी तौर पर एक टेम्परेरी ऐक्ट (Temporary Act) की तौर से पेश किया गया है । इस को हम पंजाब असेम्बली के पास भेजते हैं और जैसा वह मुनासिब समझें, इस में संशोधन कर लें, लेकिन पंडित जी की जो तरमीम है वह तो सारे किसानों के खिलाफ़ जाती है । पहली जो आप की तरमीम है उस के मुताबिक़ जो इस ऐक्ट ने १०० और २०० एकड़ की जगह ५० और १०० एकड़ कर दिया है, आप उस ५० और १०० एकड़ को ७५ और १५० एकड़ करना चाहते हैं । मैं आप से पूछता हूं कि इस की क्या ज़रूरत है । आप फ़रमाते हैं कि साहब क्या पचास एकड़ से ही स्टैन्डर्ड आफ़ लिविंग (standard of living) बनेगा । मैं मानता हूं कि शायद कुछ इलाक़े ऐसे हों.....

An Hon. Member: It is one o'clock.

Mr. Deputy-Speaker: I think the hon. Member is likely to conclude.

Shri Gautam: I would like to take at least ten minutes more, Sir.

Mr. Deputy-Speaker: In that case the House will stand adjourned till 2.30.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Lunch at Thirty-three Minutes Past Two of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

श्री गौतम: डिप्टी स्पीकर साहब, मैं ने यह निवेदन किया था कि यह प्रेज़ीडेन्ट साहब का जो बनाया हुआ ऐक्ट है वह उन हालात में बनाया गया था जब कि कांग्रेस गवर्नमेंट इतने वादे करने के बाद भी ज़मींदारी ख़त्म नहीं कर सकीं, किसानों को सहूलियतें नहीं दे सकीं, और किसानों की ख़राब हालत को देखते हुए यह बर्दाश्त न हो सका कि उन की हालत सुधारी न जाय । जो प्रेज़ीडेन्ट साहब ने यह ऐक्ट बनाया उस को हम सिर्फ़ एक ही तरह से देख कर यह कह सकते हैं कि वह क़ाबिले माफ़ी है । माफ़ किया जा सकता है जब कि यह ख़याल रखा जाय कि प्रेज़ीडेन्ट साहब ने जो हुकूमत का भार अपने ऊपर लिया था वह थोड़े दिन के लिये लिया था और वह कोई ऐसा पर्मनेंट लेजिस्लेशन नहीं करना चाहते थे जो कि बहुत दूर तक जाय । इस काम को वह एक चुनी हुई व्यवस्थापिका सभा को ही सौंपना चाहते थे । इसलिए जो भी यह ऐक्ट बना और जिस में यह तीन चार बातें और तीन चार सालों के लिए किसानों के लिए रखी, वह बहुत थोड़ी हैं, उन से कुछ लाभ नहीं होता । इसलिए मैं पंडित ठाकुर दास भार्गव के उस मूल संशोधन को इस से बेहतर समझता हूं जिस में यह कहा गया कि यह सहूलियतें सब किसानों को दे दी जायें । लेकिन इस चीज़ के साथ वह अपने दूसरे संशोधनों को किस प्रकार से बैठाते हैं यह मेरी समझ में नहीं आया । एक तरफ़ तो वह कहते हैं कि सब किसानों को बिला इस को सोचे कि उस का ज़मींदार छोटा है या बड़ा सभी सहूलियतें दे दें । इस के साथ दूसरी तरफ़ यह कहते हैं कि जब प्रेज़िडेन्ट के ऐक्ट में यह कहा गया कि १०० और २०० एकड़ की जगह पचास और सौ एकड़ हद रक्खी जाय तो उस को अब बढ़ा कर ७५ और १०० एकड़ करना चाहते हैं, मेरी समझ में नहीं आया कि ऐसा क्यों है ? जब साथ ही यह चाहते हैं कि सारे किसानों को यह सहूलियतें दी जायें । उन्हें इस बात से सन्तोष रखना चाहिये कि अगर सब को न मिलें तो पचास एकड़ से ज्यादा जिन के पास ज़मीन है ऐसे ज़मींदारों

को कम से कम मिल गई, तो फिर यह क्यों चाहते हैं ५० और ७५ एकड़ के बीच में जो किसान हैं पचास एकड़ से ज्यादा और पछत्तर एकड़ तक के जो ज़मींदार हैं उन को किसानों की सहूलियतें न दी जायें । यह दोनों चीजें मेल नहीं खातीं । इस के अलावा आप ने यह कहा कि पहाड़ी इलाक़े में यह हद बढ़ा कर १५० और ३०० एकड़ कर दी जाय । मुझे वही दलील फिर दुहराने की ज़रूरत नहीं है कि जब सब किसानों को यह सहूलियतें देने के लिए आप तैयार हों तब फिर पहाड़ी इलाक़े में १५० से ३०० एकड़ क्यों किया जाय । यह संशोधन भी मैं समझता हूं कि इस स्पिरिट के खिलाफ़ है । और बहुत से किसानों पर इस के रखने से ज्यादती होगी ।

एक चीज़ इन ऐमेण्डमेंट्स में और कही गई । उन्होंने कहा है कि गार्डेन्स (Gardens) और बंजर भूमि को एक्स्क्लूड (exclude) कर दिया जाय । बाग़ात की बात मैं समझ सकता हूं गार्डेन्स एक यूनिट (unit) हैं वह समझा जा सकता है लेकिन इस ऐक्ट में जो अपने कल्टिवेशन में है उस ज़मीन को एक्सक्लूड नहीं किया गया । यह ऐक्ट इस ज़मीन पर ऐप्लाई नहीं करता जो ज़मींदार के अपने कल्टिवेशन में है । इस लिए बाग़ात अगर दूसरे के कल्टिवेशन में हैं उस पर भी ऐप्लाई करे इस को मानने के लिए कुछ लोग तैयार हो सकते हैं । लेकिन बंजर लैन्ड जो ज़मींदार के अपने कल्टिवेशन में नहीं है और किसान के पास है उस को क्यों एक्स्क्लूड किया जाय यह मैं नहीं समझ सकता । इसलिए यह संशोधन तो बिल्कुल ग़लत है और इस को मंजूर नहीं करना चाहिये । प्रीएम्पशन (Pre-emption) के क्लाज़ के बारे में आप यह कहते हैं कि उस ज़मीन पर तो किसान को प्रीएम्पशन का अधिकार हो जिस को वह जोतता बोता है लेकिन बाक़ी जमीन पर न हो । उस में क्या दिक्क़तें होंगी और किस तरह से वह हल होगा यह सब देखने की बातें हैं । लेकिन इतनी बात तो ज़रूर मानी जाने वाली है कि जिस ज़मीन पर एक किसान है और उस का मालिक बदलता है या ज़मींदार वह ज़मीन बेचता है तो वह किसान जिस के पास वह ज़मीन है उस को राइट आफ़ प्री-एम्पशन होना चाहिये ।

खरीदने का जो क्लाज़ है उस का भी आप ने विरोध किया है और उस के निकाल दिये जाने का संशोधन दिया है । पैं नहीं जानता कि इस में क्यों पंडित जी इस बात के खिलाफ़ हैं कि किसान को ज़मीन खरीदने का अधिकार हो । यह तो जैसा मैं ने कहा एक बहुत छोटा अधिकार है उस के मुक़ाबले में जो हम चाहते हैं और जो हम पूरा करना चाहते हैं कि ज़मींदारी खत्म हो और जो ज़मीन जोते उसी के पास ज़मीन हो और स्टेट (State) और टिलर आफ़ दी सोइल (Tiller of the soil) के बीच में कोई इन्टरमीजियेरी (Intermediary) न हो । आप ने बहुत सी दलीलें दी हैं और बहुत ऐतराज़ किया है इस बात पर कि एग्री-मेंट (Agreement) को क्यों नहीं माना जाता है ज़मीन की क़ीमत के मुताल्लिक़ मैं आप से पूछता हू कि क्या यह ऐग्रीमेंट ऐसी पार्टीज़ के दरम्यान है जो बराबर का सौदा करने का अधिकार रखती थीं ? एक तरफ़ ज़मींदार है, एक तरफ़ किसान हैं । यही दलील थी महात्मा गांधी की जब उन्होंने इन्डेंचर्ड लेबर (Indentured labour) को अपोज़ (oppose) किया था । जब तक किसी कंट्रक्ट (contract) में दोनों पार्टीज़ बराबर की न हों तब तक वह कंट्रक्ट कहलाने के लायक़ नहीं होता और इस लिये जो ज़मीन की क़ीमत हो वह कोई दूसरा आदमी तै करे तो इस में किसान को सहूलियत हो जायगी नहीं तो ज़मींदार

[श्री गौतम]

किसी न किसी तरह जबरस्ती कर के कोई न कोई एग्रीमेंट लिखवा लेंगे और अगर वह ऐग्रीड क़ीमत मान ली जायगी तो ज़मींदार को बहुत जुल्म करने का मौक़ा मिलेगा और किसान के साथ ज्यादती होगी । इस लिए मैं जितने भी पंडित ठाकुर दास भार्गव के अमेंडमेंट्स हैं उन सब का विरोध करता हूं । जो उन का पहला अमेंडमेंट है और जिस को वह अपना मूल संशोधन कहते हैं उस की स्पिरिट की ताईद करता हूं ताकि जब पंजाब की असेम्बली के नये लैजिस्लेचर्स इस क़ानून पर ग़ौर करेंगे और इस कानून को अपने सूबे के लिए बनायेंगे तो इस ख्याल को भी मद्दे नज़र रखें कि वह सब किसानों को सहूलियत पहुंचायें न कि थोड़े से किसानों को । इसलिए मैं इस मुख्य अमेंडमेंट की स्पिरिट की ताईद करता हूं और उम्मीद करता हूं कि हाउस बाक़ी सब संशोधनों को नहीं मंजूर करेगा और गवर्नमेंट भी मंजूर नहीं करेगी ।

(*English translation of the above speech*)

Shri Gautam: Sir, the Act promulgated by the President on the 24th December, 1951, was a modest attempt to make up a serious deficiency in regard to a matter about which the Congress and the Congress Government had been going about proclaiming their intentions so loudly to the world but which they could not follow up, and to undo the injustice that had long been practised against the *kisans*. In view of the fact that the Government there was a provisional one and the power of legislation vested in a representative body, only such few provisions were incorporated in that measure as were urgently called for. This alone can be an explanation for the present Act as also for its not going too far. For the last so many years we have been crying aloud for the abolition of *Zamindari*. The administration of the country came into our own hands, *Swarajya* was attained, we got the power to frame the Constitution of our country, but what a pity, we have not yet been able to achieve that ideal and put an end to the institution of *Zamindari*. Our failure to do so is due to the fact that we are handicapped by certain provisions that have unfortunately come to be incorpcrated in our Constitution. Take, for instance, Article 19 of the Constitution which lays down:

> "That all citizens shall have the right to acquire, hold and dispose of property."

I had moved an amendment seeking to get this provision deleted. If this clause had not formed a part of the fundamental rights, and if the property clause that follows it had also not been there, I dare say this Constitution of ours would have been a truly democratic Constitution. In view of the difficulties we are having to face at present I feel that all of us, including all our leaders, committed a grave mistake by including these clauses. That a measure, which seeks to afford a few facilities to poor folk, who not only sustain themselves by dint of their labour but even help sustain the rest of the world, should be opposed in the name and on the basis of the provision, that every person has an unlimited right to acquire, hold and dispose of property, is, I think, absolutely unjustified. And yet, I wish the Punjab Assembly may commence its work as early as possible and enact legislation to the effect that he who tills a piece of land should alone be its owner and possessor and that anyone who gets his land cultivated by another person should not be entitled to its produce and income. Today we apply the term 'owner' only to him who holds the land and do not at all consider those who sweat and labour over it, who do the tilling and the ploughing, who go hungry and naked and suffer all kinds of hardships. We do not mind at all if they are subjected to oppression. I have great regard for Pandit Thakur Das Bhargava ordinarily but I must deprecate the wrong kind of mentality he has shown in opposing this Act as also the arguments he has advanced against it. That kind of mentality would do no good to the poor *kisans*. Hence I wish Panditji would withdraw all these amendments and let us pass this President's Act for the mere reason, if for no other, that it is just a temporary and provisional measure and has been brought forth as such. Let us pass it on as such to the Punjab Assembly and allow them to make therein whatever amendments they might think proper. The amendment proposed by Panditji, however, goes against the very interests of the *kisans* as a whole. The present Act seeks to substitute '50' and '100' acres respectively for '100' and '200'

acres mentioned in the original Act but according to Panditji's first Amendment these figures are sought to be replaced by '75 acres' and '150 acres' respectively. Now, where is the need for that change? He asks, will fifty acres suffice to maintain a proper standard of living. I admit there may be certain areas.....

An Hon. Member: Sir, it is one o'clock.

Mr. Deputy-Speaker: I think the hon. Member is likely to conclude.

Shri Gautam: I would like to take at least ten minutes more, Sir.

Mr. Deputy-Speaker: In that case the House will stand adjourned till 2.30.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Lunch at Thirty-three Minutes Past Two of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

Shri Gautam: Sir, as I submitted, when this President's Act was promulgated the circumstances were such that the Congress Governments had been unable to abolish *Zamindari* in spite of all their promises, or to afford any facilities to the *kisans*. The plight of the *kisans* was so unbearably bad that something had to be done for them. This single fact should serve as an apology for the promulgation of the President's Act. Let it be kept in view that when the President assumed the powers of Government it was only for a limited period and there was no intention to frame any legislation of a permanent or far-reaching nature. That function he wanted to hand over to a duly elected legislature. Hence, this Act which contains three or four provisions meant to afford relief to the *kisans* for a period of three or four years does not go far enough. They are not of much use. Hence, I think the original amendment by Pandit Thakur Das Bhargava to the effect that these facilities should be extended to all the *kisans* is better than that. But I fail to understand how does he reconcile his other amendments to that one. On the one hand he pleads for the extension of these facilities to every *kisan* without regard to the fact whether his landlord is big or small. On the other hand in regard to the provision in the President's Act substituting fifty and hundred acres respectively in place of hundred and two hundred acres, his proposal is that the limits should be raised to 75 and 100 acres; I fail to understand why he wants so, especially when he pleads at the same time that these facilities should be extended to all *kisans*. It should afford him satisfaction to feel that if the relief does not extend to all *kisans* it at least extends to all those holdings exceeding fifty acres of land. Why does he want then that the *kisans* holding between fifty and seventy-five acres should not be afforded the relief proposed to be made available to them? The two pleas are hardly compatible, one with the other. He has further proposed that in the case of hilly tracts the limit should be raised to 150 and 300 acres. I need not repeat the argument that when he is prepared to extend this relief to all *kisans* why should the limit be put at 150 to 300 acres in the case of hilly tracts. This amendment too is, in my opinion, contrary to that spirit and would work hardship against lots of *kisans*.

These amendments incorporate one more proposal, *viz.*, that gardens and barren land should be excluded. I can understand the proposal for the exclusion of gardens, for gardens form a unit by themselves, but this Act does not exclude land under self-cultivation. This Act does not apply to land which is under the Zamindar's own cultivation. Some people might agree to the proposition that it should also apply to gardens if they are under the cultivation of someone else. But I fail to understand why barren land, which is not under the *Zamindar's* own cultivation but is with the *Kisan*, should be excluded. This amendment, therefore, is quite wrong and should not be accepted.

With regard to pre-emption he pleads that the *kisan* may have his right of pre-emption in respect of such land as is tilled and cultivated by him but not in respect of other land. What would be the difficulties involved in that case and how would the same be resolved are matters to be considered. One thing must however be conceded that when a piece of land which is cultivated by a *kisan* changes hands or the *Zamindar* sells it the *kisan* in cultivating possession of the land should have the right of pre-emption.

He has also opposed the clause relating to purchase, and has moved an amendment seeking to delete the same. I am unable to understand why Panditji is opposed to the *kisan* having the right to purchase land. As I have stated this is a very ordinary right in comparison to what we are aiming at and wish to realize, *viz.*, that *Zamindari* be abolished, that land should belong to him who cultivates it and that there should be no intermediary between the State and the tiller of the soil. He has adduced lots of arguments and raised he contention

[Shri Gautam]

as to why should not the agreement be relied upon in the matter of the price of the land. I ask, is this agreement between such parties as were competent to enter into an equitable contract? On one side is the *Zamindar* and on the other the *kisan*. This very argument was advanced by Mahatma Gandhi at the time he opposed indentured labour. A contract cannot be regarded as a proper one unless both the parties thereto stand on an equal footing. Hence, it would be better for the *kisan* if the price of the land were fixed by a third party, for, otherwise, the *Zamindar* would adopt some other highhanded means and secure an agreement and if the price mentioned therein were to be accepted as the agreed price, that would afford the *Zamindar* an opportunity to work oppression and put the *kisan* at a great disadvantage. Hence I oppose all the amendments that have been moved by Pandit Thakur Das Bhargava while supporting the spirit underlying his first amendment, which he calls his original amendment, so that when this measure comes to be considered by the legislators of the Punjab Assembly and they may decide to adopt it as law for their State they might keep it in view that they have to afford relief to all the *kisans* and not to some of them only. Hence I support the spirit of the main amendment and hope that the rest of them will not be accepted by the House and the Government.

बाबू रामनारायण सिंह: उपाध्यक्ष महोदय, जब से मैं केन्द्रीय सभा का सदस्य हुआ हूं तब से पंजाब में आना जाना जारी है लेकिन उधर किसानों की हालत पर मेरा विशेष ध्यान नहीं गया। लेकिन इधर दो तीन वर्षों से पंजाब के किसानों की हालत पर मेरा ध्यान विशेष रूप से गया, किसान सम्मेलनों में भी मैं वहां सम्मिलित हुआ, कुछ इलाकों में सफ़र भी किया, वहां के गांवों में भी गया और किसानों की हालत देख कर मुझे बहुत तक़लीफ़ हुई। मैं समझता था कि हमारे देश के एक कोने में पंजाब में किसानों को इतनी तक़लीफ़ नहीं होगी। जैसा कि अभी आप कों लाला अचिंत राम जी ने बतलाया था कि पंजाब में एक क़ानून बना था कि किसानों को अपनी जमीन से हटाया न जाय लेकिन जिन ज़मींदारों की सौ एकड़ ज़मीन हो उन लोगों को यह अख्तियार दिया गया था कि वह अपने किसानों को हटा सकते थे। सौ एकड़ ज़मीन उन को ज़रूर रहनी चाहिये। जैसा कि लाला अचिंत राम जी ने बतलाया, मैं ने वहां जा कर देखा कि जिन ज़मींदारों के पास पांच और छः सौ एकड़ ज़मीन थी उन्होंने उस को अपने परिवारों में बांट लिया और एक एक होल्डिंग (holding) को सौ एकड़ से कम कर दिया और इस तरह से किसानों को हटा देने का अधिकार प्राप्त कर लिया। तो मैं ने गांवों में देखा कि दो चार घर तो ज़मींदारों के हैं और बाक़ी चालीस पचास या इस से भी अधिक घर ग़रीब किसानों के हैं और मैं ने यह भी देखा कि उन लोगों को कोई भी अधिकार नहीं है। मैं ने ज़मींदारों से भी मिलने की कोशिश की और मैं ने लोगों से कहा कि भाई जितने लोग गांव में रहते हैं उन सब का हक़ गांव की ज़मीन से परवरिश पाने का है और यह हक़ परमात्मा का दिया हुआ है और अगर ज़मींदार लोग यह चाहें कि इस ज़मीन से उन्हीं को लाभ हो और किसानों को न हो तो यह बिल्कुल अस्वाभाविक और अमानुषीय बात होगी। इस से न ज़मींदार का लाभ रहेगा और न किसानों का लाभ रहेगा। ख़ैर, मैं ने बहुत कुछ कहा मगर उस का कहीं अच्छा असर नहीं दिखाई दिया। अब हमारे प्रेज़ीडेंट साहब ने क़ानून बना दिया है और हमारे भाई ठाकुर दास जी ने उस पर अमेंडमेंट (amendment) पेश किये हैं तो उन के अमेंडमेंट्स पर विचार किया जाय यह तो सही बात है। लेकिन मैं कहूंगा कि जैसा कि लाला अचिंत राम जी ने या सरदार ज्ञानी गुरमुख सिंह जी ने कहा है, कि जो प्रेज़ीडेंट साहब का क़ानून बनाया हुआ है वह ज्यों का त्यों पास हो तब तो सही:

है और अगर ठाकुर दास जी के अमेंडमेंटों के साथ वह पास हुआ तो उस से किसानों को नफ़ा नहीं होगा। मैं सपझता हूं कि हमारे भाई ठाकुर दास जी भी देशभक्त व्यक्ति हैं और इन्साफ़ चाहने वाले हैं। अभी ठाकुर दास जी ने एक बहुत अच्छी बात कही कि सरकार के जो इलाक़े हैं, जो सरकार की ज़मीनें हैं, सरकार उन ज़मीनों पर किसानों को पूरा पूरा हक़ नहीं देती है तो सरकार को क्या हक़ है कि वह ज़मींदारों की ज़मीन पर वह हक़ दिलवाने की कोशिश करें। उन का यह कहना तो सही है लेकिन इस के मानी तो यह भी होने चाहियें कि जो हक़ किसानों को ज़मींदारों की ज़मीन पर दिये जा रहे हैं वह अपनी जगह पर रहें और उस के साथ ही साथ यह भी होना चाहिये कि जो सरकारी ज़मीनें हैं उन पर भी किसानों को पूरा पूरा हक़ होना चाहिये। मैं तो खुद किसान हूं, उपाध्यक्ष महोदय। लेकिन जिस तरह से यह आवाज़ उठाई जाती है कि ज़मींदारी हटा दी जाय, तो ज़मींदारी तो ज़रूर हटा दी जाय, वह तो किसी तरह रहने की चीज़ नहीं है, लेकिन बड़े बड़े ज़मींदारों को चाहे छोटे छोटे ज़मींदारों के जो अख्तियार हैं और जिस तरह से किसानों की हालत हो रही है .....

Mr. Deputy-Speaker: I am sorry and I would not have brought this to the notice of the House, but I have to do it now. It is clearly stated here:

> "If at any time of the meeting of the House there is no quorum, it shall be the duty of the Chairman or Speaker or person acting as such to either adjourn the House or to suspend the meeting until there is quorum."

Hitherto, only if this was brought to my notice, I was willing to take notice of it. But this Article states it quite clearly and as there is now no quorum I cannot allow the proceedings of the House to go on.

An Hon. Member: The bell may be rung.

Mr. Deputy-Speaker: It is not my duty to do that. It is the duty of the Whip to see that there is quorum in the House. If it is Government business the Government should see that there is quorum and if it is non-official business the hon. Member concerned should see to it.

Shri Venkataraman: I am only suggesting that it may be ordered that the quorum bell should be rung.

Shri Bharati (Madras): It is only a matter of co-operating. If the bell is rung those outside will come in. Hon. Members are coming in.

Mr. Deputy-Speaker: All right. The hon. Member may go on.

बाबू रामनारायण सिंह: उपाध्यक्ष महोदय, सरकारी अफ़सर क्यों ग़ैर हाज़िर रहते हैं? मेम्बर लोगों को तो माफ़ किया जा सकता है लेकिन जो सरकारी अफ़सर मोटे मोटे वेतन लेते हैं वह क्यों ग़ैर हाज़िर रहें?

उपाध्यक्ष महोदय: वह लोग भी क्यों न हाज़िर रहें?

बाबू रामनारायण सिंह: मैं अभी कह रहा था कि सारे देश में किसानों के साथ जो सरकार का बरताव होना चाहिये वह नहीं हो रहा है।

लेकिन पंजाब की हालत तो और भी भयानक है जो कि मैं पहले भी कह चुका हूं और जैसा अभी मैं कह रहा था कि ज़मींदारी चली जाय तो यह तो जाना ही चाहिये, यह तो सही बात है। यह ठीक है। लेकिन ज़मींदारी जाने के बाद जो ज़मीनों का प्रबन्ध हो तो वह प्रबन्ध बहुत ठीक होना चाहिये। उपाध्यक्ष महोदय, मैं जानता हूं कि हमारे सूबे में भी ख़ास महाल हैं, सरकारी ज़मीनें हैं। तो वहां के रैयत लोग, किसान लोग, भी सुखी नहीं है। उस की वजह यह है कि ज़मींदार की जगह सरकारी तहसीलदार और सरकारी अमला वग़ैरह जो हैं उन्होंने ले ली

[बाबू रामनारायण सिंह]

है । और सरकारी लोग किसानों के साथ जमींदारों से भी अधिक बुरा बरताव करते हैं । तो यह ठाकुर दास जी का कहना बहुत सही है और मैं उस की ताईद करता हूं कि जहां जहां सरकारी जमीनें हैं वहां पर भी किसानों का पूरा पूरा हक़ होना चाहिये, बल्कि जमींदारों की जमीनों पर जितना हक़ होना चाहिये उस से भी अधिक होना चाहिये ।

हम ने एक और बात सुनी जो हम को बहुत खटकी कि जो इवैक्युई प्रापर्टी (evacuee property) है यानी जो जमींदार लोग पाकिस्तान चले गये हैं उन जमींदारों की जमीन पर यानी इवैक्युई प्रापर्टी पर किसानों को हक़ नहीं है । यह बिल्कुल भद्दी बात है । ऐसा क्यों इस तरमीम में रखा गया है । जो प्रैजीडैण्ट का बनाया हुआ क़ानून है उस में यह रखा गया है, यह तो कभी नहीं होना चाहिये । किसानों का हक़, कैसी हो जमीन हो, चाहे वह किसी जमींदार के अधीन में हो, सरकार की जमीन हो, इवैक्युई प्रापर्टी हो, जहां कहीं हो, किसानों का हक़ पूरा पूरा होना चाहिये । लेकिन जैसा कि क़ानून में दिया हुआ है कि किसी जमींदार के पास अगर १०० एकड़ जमीन हो, तो उस जमीन को पूरा पूरा उस को जोतने का अधिकार है । अगर वह खुद काश्त कर सके तो वहां भी किसान हो जाय । तो ऐसा तो होता नहीं है । वह दूसरों से खेती करवाता है लेकिन, खैर, उस में भी मुझे झगड़ा नहीं है ।

लेकिन एक बात जो मुझे खटकी है सो वह कह देता हूं । वह यह कि पंजाब में बहुत से ट्रैक्टर पहुंच गये हैं । तो ट्रैक्टर की खेती से, उपाध्यक्ष महोदय, मैं कहता हूं कि कभी हमारे देश को विशेष लाभ नहीं होने को है । एक तो ट्रैक्टर खरीदने में बहुत से रुपये चले जाते हैं, जिन रुपयों से कि यहां खेती के सम्बन्ध में और भी बहुत अच्छी खेती की उन्नति का काम किया जा सकता है । दूसरी बात यह है कि ट्रैक्टर की खेती होने से बहुत से लोग अनएम्प्लाइड (unemployed) हो जाते हैं । बहुत से किसान लोग जिन को खेती के सम्बन्ध में काम मिलना चाहिये था वह काम उन को नहीं मिलता है । तो अनएम्प्लायमेंट भी बढ़ती है । और उस के साथ साथ मैं जहां तक समझता हूं कि बैलों की कम जरूरत होने से किसान लोग बैलों को नहीं रखना चाहते । इस तरह बैलों से जो खाद होता है उस की भी कमी हो जायगी । तो ट्रैक्टरों की खेती, अगर जहां जहां जरूरत हो, उस को तो उत्साहित करना चाहिये, यह मैं मानता हूं, लेकिन जैसी हमारे देश की हालत है, इस हालत में ट्रैक्टरों से खेती होने से कोई लाभ नजर नहीं आता है । उस से बल्कि घटी ही हो सकती है ।

तो मैं और अधिक बातें नहीं कहना चाहता । लेकिन मैं भाई ठाकुर दास जी से कहता हूं, सरकार से कहता हूं, कि जो कोई क़ानून खेत के सम्बन्ध में बने, जमीन के सम्बन्ध में बने, उस में किसानों को तो पूरा पूरा अधिकार होना चाहिये । लेकिन अधिकार कैसे ? वह अधिकार नहीं कि सरकार मालिक समझी जाय और किसान को सरकार टेनेंट (tenant) ही माने । मैं चाहता हूं कि जमीन का मालिक किसान समझा जाय । सरकार टैक्स ले, मालगुजारी ले, वह तो दूसरी बात है, वह तो मैं मानने को तैयार हूं । लेकिन सरकार देश की सारी जमीन की मालिक समझी जाय, यह तो मैं पसन्द नहीं करता, क्योंकि उस के माने यह हो जाते हैं कि सरकार तो वहां पर रहती नहीं, मौक़े पर उस के अमले के लोग रह

हैं और वह मालिक की तरह बरताव करते हैं और किसानों को बुरी तरह से सताते हैं।

पंडित ठाकुर दास भार्गव: आपके बिहार का ऐक्ट क्या कहता है ?

बाबू रामनारायण सिंह: अभी तो वहां पर ज़मींदार हैं।

पंडित ठाकुर दास भार्गव: जो ऐक्ट पास किया गया है उस में एक ख़ास दिन मुक़र्रर है कि उस दिन से बिहार की गवर्नमेंट सब ज़मीन की मालिक हो जायगी।

बाबू रामनारायण सिंह: तो उस को मैं नहीं चाहता। ऐसा नहीं होने देना चाहिये कि सरकार मालिक हो जाय। इस में तो नैशनेलाइज़ेशन (nationalization) की बात आ जाती है। तो, उपाध्यक्ष महोदय, मैं ने बहुत बार कहा है कि नैशनेलाइज़ेशन की बात क्या कहते हो। जब तक लोगों के माइंड (mind) का नैशनेलाइज़ेशन नहीं होता है, जब तक लोगों का कैरेक्टर (character) नैशनेलाइज़ नहीं होता है, तब तक नैशनेलाइज़ेशन नहीं हो सकता है। सरकार तो नैशनेलाइज्ड है। लेकिन इस से लोगों को कितना लाभ हो रहा है। यह तो कंट्रोल (control) की बहुत सी बातों का परिणाम हम जो कुछ सरकार की तरफ़ से काम होता है उस में देख रहे हैं। अभी तो सरकार की तरफ से जो कॉम होता है वह और भी ख़राब होता है। इसलिए मैं कहता हूं कि नैशनेलाइज़ेशन होगा तो मैं ख़ुश होऊंगा, वह अच्छा तरीक़ा होगा। लेकिन जब तक लोगों का नैशनल कैरेक्टर (national character) नहीं होता है, जब तक हर एक आदमी यह नहीं समझने लग जाता है कि मैं जीता हूं तो देश के लिए, अपने लिये नहीं, अपने ख़ानदान के लिये नहीं, जब तक यह कैरेक्टर नहीं बनता है, तब तक इंडस्ट्री (Industry) को चाहे सारी ज़मीन को नैशनेलाइज़ करो, इस से कुछ लाभ नहीं होने वाला है। इस का मैं कुछ मतलब नहीं समझता।

अभी इस बात की ज़रूरत है कि जितनी ज़मीनें हों, किसानों को उन ज़मीनों पर पूरा पूरा अख़्तियार होना चाहिये। वही ज़मीन के मालिक समझे जायें, वही ज़मीन के हर तरह से हक़दार समझे जायें।

हमारे भाई ठाकुर दास जी ने प्रीऐम्प्शन (pre-emption) के बारे में भी बात कही। वह तो मुझे भी खटकी। मैं किसानों का हर तरह से भला चाहता हूं। लेकिन किसानों को भी जो अधिकार दिये जायं वह भी इन्साफ़ के अन्दर ही रहने चाहियें। तो जितनी ज़मीन किसान की है उतनी पर उस को पूरा अख़्तियार होना चाहिये। लेकिन जो उन के अधिकार के बाहर है, जो ज़मीन उन के क़ब्ज़े में नहीं है, उस पर भी उन को अख़्तियार दिया जाय यह तो ज़रा मुझे भी खटकती है। यह ज़रा सोच विचार करने की बात है, क्योंकि चाहे किसान हो चाहे ज़मींदार हो मैं चाहता हूं कि जब तक क़ानून है तो क़ानून के मुताबिक़ हर एक के साथ इन्साफ़ होना चाहिये और क़ानून भी ऐसा बनाना चाहिये कि जिस में सब के साथ इन्साफ़ हो।

तो, ख़ैर, मेरे कहने का मतलब तो, जैसा हमारे लाला अचित राम जी ने और और लोगों ने कहा है, यह है कि इस को सब मिल-जुल कर ऐसा बनायें कि जिस में ज़मींदारों की भी गुज़र चले। जो ज़मींदार कहलाते हैं और गांव के अन्दर जो और लोग रहते हैं और उन का जो स्टैंडर्ड (standard) है और उन से ऊपर वह सुख से किसान के हक़ को मार कर रहना चाहें तो यह तो अब

[बाबू रामनारायण सिंह]

न्याय की बात नहीं होगी । गांव में जितने लोग हैं, चाहे किसान हों चाहे ज़मींदार हों, जिस तरह किसान को रहने का हक़ है उस से अधिक सुख से उस से ज्यादा नफ़ा उठा कर कोई ज़मींदार रहने नहीं पायेगा ।

मैं समझता हूं कि ईश्वर की दी हुई यह सारी ज़मीन है । जितने लोग यहां रहते हैं उन सब को उस ज़मीन से पूरा पूरा और बराबर बराबर लाभ उठाने का हक़ है । यह बात नहीं है कि मैं कोई कम्युनिस्ट पार्टी वालों की सी बात कह रहा हूं, मैं कम्युनिस्ट नहीं हूं लेकिन जहां तक इंसाफ़ का सवाल है मुझे इंसाफ़ की बात बोलनी होगी और मैं समझता हूं उस के मुताबिक़ सब को चलना चाहिये और उसी में सुख और शान्ति प्राप्त हो सकती है । बस अधिक न कह कर मैं यही चाहता हूं कि जिस तरह से लाला अचित राम वगैरह चाहते हैं कि ठाकुर दास जी के संशोधन में अगर संशोधन हो तब तो ठीक है नहीं तो मैं पंडित ठाकुर दास जी से अर्ज़ करूंगा कि वह अपने संशोधनों को वापिस ले लें ।

पंडित ठाकुर दास भार्गव : जिन को आप पसन्द करें उन को भी वापिस ले लूं ?

बाबू राम नारायण सिंह : उन को नहीं ।

(English translation of the above speech)

Babu Ramnarayan Singh: Sir, ever since my election to the Central Legislature, I have had several occasions to visit the Punjab. For the last two or three years, however, I have had no occasion to pay any particular attention to the conditions of peasantry in that State. During this interval I have participated in a few *Kisan* conferences there, have travelled in certain parts and have also visited the countryside. I felt much horrified to find the peasantry there living in such deplorable conditions. I could never think that they in the Punjab might be undergoing such rigours of life. Lala Achint Ram stated here a short while ago that there operated a legislation in the Punjab whereby the tenants could not be ejected from their lands and that an exception was made in the case of *Zamindars* owning up to 100 acres of land. Under the Act it was made permissible for such *Zamindars* to eject their tenants. At all times they were allowed to own 100 acres of land. As has been stated by Lala Achint Ram, I also observed that the *Zamindars* of the Punjab with holdings of five or six hundred acres had distributed them in their family members in such a way as to bring each holding within the legal limit of 100 acres per head and thus they managed to acquire the right of ejecting the tenants. I found that in the Punjab villages there were only two or three houses of the Zamindars while the rest of the forty or fifty houses or even more than that number, were those of poor *Kisans*. I also noted that they possessed no rights whatsoever. I tried to contact the *Zamindars* also. I tried to impress on them that all the villagers of a particular village had an equal right to maintain themselves out of the village lands. I told them that it is a God's gift and as such should the *Zamindars* wish to derive an exclusive benefit out of it and try to keep the *Kisans* deprived of the same, it shall be absolutely an unnatural and inhuman act. I explained to them that both the *Zamindar* and the *Kisan* stand to suffer that way. Well, though I pleaded much with them, no beneficial effect was manifest. The President promulgated an Act to which amendments are now moved by Pandit Thakur Das Bhargava. It is but right that his amendments should be duly considered. I will, however, submit that like my hon. friends Lala Achint Ram and Giani G. S. Musafir, I also think that it will be correct to pass the Act as promulgated by the President. Should it be passed with the amendments moved by Pandit Thakur Das Bhargava, the *Kisans* of the Punjab stand to gain little. I regard Pandit Bhargava as patriotic at heart and a justice-loving individual. He made a good point when he said that it was inconsistent for the Government to force the *Zamindars* to concede rights to the tenants on their lands which the Government were denying their own tenants. His assertion is correct. It may, however, also mean that apart from giving the tenants these rights on the *Zamindar's* lands, effort should be made to give them the same rights on Government lands too. Sir, I am myself a *Kisan*. I also want *Zamindari* to be abolished. I also consider that

its continued existence is an undesirable thing. But looking at the rights which the big and the small *Zamindars* are enjoying as also the conditions to which the tenants are being continually reduced.....

Mr. Deputy-Speaker: I am sorry and I would not have brought this to the notice of the House, but I have to do it now. It is clearly stated here:

> "If at any time of the meeting of the House there is no quorum, it shall be the duty of the Chairman or Speaker or person acting as such to either adjourn the House or to suspend the meeting until there is quorum."

Hitherto, only if this was brought to my notice, I was willing to take notice of it. But this Article states it quite clearly and as there is now no quorum I cannot allow the proceedings of the House to go on.

An Hon. Member: The bell may be rung.

Mr. Deputy-Speaker: It is not my duty to do that. It is the duty of the Whip to see that there is quorum in the House. If it is Government business and the Government should see that there is quorum and if it is non-official business the hon. Member concerned should see to it.

Shri Venkataraman (Madras): I am only suggesting that it may be ordered that the quorum bell should be rung.

Shri Bharati: It is only a matter of co-operating. If the bell is rung those outside will come in. Hon. Members are coming in.

Mr. Deputy-Speaker: All right. The hon. Member may go on.

Babu Ramnarayan Singh: Sir, may I know why the Government officials, who draw fat salaries, remain absent? The hon. Members' absence is excusable, but why should the officials be absent?

Mr. Deputy-Speaker: But what is the justification for the hon. Members' absence?

Babu Ramnarayan Singh: I was just telling the House that throughout the country the *Kisans* are not receiving that treatment at the hands of the Government as they ought to get. In the Punjab their conditions are worse still. I have already declared myself to be completely in favour of the abolition of *Zamindari*. It will be a right thing to abolish it. But what matters is that after the abolition of *Zamindaris* the arrangements for land settlement should proceed on a very sound basis. I am aware Sir, that the conditions prevailing in my part of the country are peculiar. We have Government lands there also. Even then the tenants there are not in any way happy. The reason is to be found in the fact that in their case *Zamindars* have been replaced by the *Tehsildars* and other officials. These officials treat the tenants worse than the *Zamindars*. I, therefore, realize that there is much truth in the assertion of Pandit Thakur Das Bhargava that not only the tenants working on Government lands everywhere should enjoy all the rights conceded to their brethren tilling the *Zamindars'* lands, but that we should go a step further and give them more rights.

There is another matter which has sounded somewhat disconcerting to us. It is stated that the tenants settled on the evacuee property i.e., the evacuee lands of persons who have migrated to Pakistan, have no rights on these lands. It is a much undesirable feature of this amendment. I do not understand why this provision is included in the President's amending Act in question. The tenants should enjoy full rights in regard to all lands irrespective of the fact whether they belong to the *Zamindars* or the Government or happen to be evacuee property. The law, however, provides that a *Zamindar* owning up to 100 acres of land, has full rights to cultivate it himself in which case he will also be regarded as a *Kisan*. But in actual practice this is not the case. It is the other people who do cultivation for him. Anyway I have no desire to contend that position.

One thing that is disconcerting again is that there is now a large number of tractors in the Punjab. I hold Sir, that cultivation with the help of tractors is not going to do much good to our country. Firstly, quite a large sum is required for the purchase of a tractor which could have otherwise been utilized in cultivation with much more benefit. Secondly, cultivation with the help of tractors renders a large number of persons unemployed. A considerable number of persons who should have otherwise been provided with agricultural work, just cannot get it. This type of cultivation increases unemployment. Besides, the *Kisans* don't want to keep oxen because of their very restricted use in this type of cultivation. As a result there will be a shortage of manure in the shape of cow-dung. I concede that tractors should be used for cultivation at places where required. Looking at the conditions prevailing in this country, however, a large-scale use of tractors

[Babu Ramnarayan Singh]

does not seem to be much useful. On the contrary it is detrimental to the interests of agriculture as a whole.

I don't want to say any more. I only want to plead with Pandit Thakur Das Bhargava and the Government that the tenants or the *Kisans* should enjoy full rights in all legislations in regard to land that may be framed in this country. But let us clearly understand what these rights actually mean. This does not mean that the Government should be considered to be the owner and the *Kisans* just tenants for all times to come. I want that the *Kisans* should be regarded as the real owners of the land. That the Government are entitled to realize the land-revenue or any other tax, is a different thing. That I am prepared to admit. But I don't quite like the idea that the Government of the country should become the owner of all lands. This is so because the Government have to manage those lands with the help of their offcials who behave like the owners and harass the *Kisans* in various ways.

Pandit Thakur Das Bhargava: What is the provision in the Bihar Act?

Babu Ramnarayan Singh: So far *Zamindars* exist there.

Pandit Thakur Das Bhargava: The Act, that has recently been enacted, provides a definite date from which ownership of all lands shall be deemed as vested in the Government.

Babu Ramnarayan Singh: I don't favour that idea. I don't want the Government to become the owner of land. It is tantamount to nationalisation. Sir, I have dwelt on the subject of nationalisation on several occasions. Till there is a nationalisation of the very minds and the character of our people, nationalisation in any sphere cannot meet with any success. Our Government is all nationalised, but how much good has it been able to do to the people? We are witnessing the many evil effects of their policy of controls. As things stand, anything undertaken by the Government yields still worse results. That is why I will welcome a total nationalisation. That is a much better way to do things. Till a time all our citizens begin to realize that they live for the country and not merely for themselves or for their families, no schemes of nationalisation of industry or land can result in any good. Till then I consider all nationalisation to be meaningless.

As things stand, what is required is that the tenants should be given full rights with regard to all lands. They should be regarded as the *bona fide* owners of land and should enjoy all proprietary rights.

Pandit Thakur Das Bhargava has referred to pre-emption. This thing also has attracted my attention. I stand for the welfare of *Kisans* in every way. Even then the rights conceded to them should be within the ends of justice. A *Kisan* should be free to enjoy full rights on the land which he is actually cultivating. But it is only just that he should have rights on the land which is not in his possession. The matter requires some consideration. Whether someone happens to be a *Zamindar* or a *Kisan*, the law should be equitable to everyone and to that end all laws, should, in fact, be framed.

As stated by Lala Achint Ram and others, what I mean in short is that all of us should join hands in so framing the legislation as to afford maintenance for the *Zamindars* also. The standard of living of people other than *Zamindars*, who populate the Punjab villages, is generally very low. So if the *Zamindars* may wish to keep those people permanently subdued and live comfortably themselves, it will be tantamount to injustice. All people living in a village should have an equal right to a comfortable living. The *Zamindars* will not be allowed to live more comfortably than the *Kisans*.

I regard all lands as God's gift. All people earning their living out of land have an equal and perpetual right to its benefits. It is not that I am a Communist or that I am saying it out of allegiance to the Communist Party. I however, must say things which I regard to be just. I think that it ought to work on just lines and only then it can bring peace and prosperity. Like Lala Achint Ram and others I also think that an amendment is called for in the amendment moved by Pandit Thakur Das Bhargava, otherwise I request Pandit Bhargava to withdraw his amendments.

3 P.M.

Pandit Thakur Das Bhargava: Should I withdraw those also which you like?

Babu Ramnarayan Singh: No, they should not be withdrawn.

The Minister of Home Affairs and Law (Dr. Katju): I am sure that the hon. Member who moved the resolution would have seen that the atmosphere

in this House is not very congenial to him and practically all the Members who followed him have appealed to him to withdraw the resolution and at one stage it was even suggested that as a matter of fact the Bill enacted by the Governor or by the President has not gone far enough. The Mover himself pointed out one very essential fact, namely that as soon as the normal constitutional machinery begins to function in the Punjab—and we hope that it will begin to function in a very few weeks—then these Acts will lapse within 12 months of that date.

[MR. SPEAKER *in the Chair*]

These elections have in every State of India brought into existence, for the first time, very representative legislatures and it is quite obvious that, in the matter of agrarian legislation, the problems of each State are peculiar; whereas the general lines on which agrarian legislation should proceed are well drawn and are applicable throughout India, the details vary from State to State. I submit that it is in the fitness of things that the newly elected State legislature should have the amplest opportunity to deal with this problem. I am sure it will do so and I am certain that one of the very first tasks which will engage its attention will be the examination of the whole agrarian problem covered by this Act as well as other Acts and then passing suitable legislation on every aspect of the question.

Some suggestion was made—I do not know whether it was an oratorical flourish or was seriously intended—that these Acts in point of timing had something to do with the elections. It was suggested that one Act was passed prior to the elections and another was passed after the elections. I would very emphatically repudiate this suggestion. When the Governor took over on the failure of the constitutional machinery, it was his duty to administer the State on behalf and under the control of the President in the interests of all communities, all interests and sections of opinion. I am sure he consulted public opinion in the manner open to him and in the best interests of the community he thought it fit to recommend these Bills to the President and these Acts were then enacted. They had nothing to do with the elections. I have heard that really, as a matter of fact, not much use was made of these Acts during the course of the elections. They dealt with very deep-seated problems in the Punjab. There is great divergence of opinion and as some hon. Member pointed out, the *Kisans* or cultivators have been almost shouting themselves hoarse that their age-long grievances should be redressed. My hon. friend who is a great advocate has spoken in a very persuasive voice seemingly for the upper classes. He says that he is not opposed to the abolition of *Zamindaries*. He says that he is in cordial agreement with the general policy of the Congress. But the net result of the whole of his argument was "Let us have a little more: something here and something there. Let us raise the limit of the permissible holdings from 50 acres standard to 75 acres and from 100 acres to 150 acres." And then he very strongly contested the right of pre-emption. I do not wish to enter into any argument, because I am going to venture and suggest to him at the end that he would accept the view of the hon. Members who have already suggested to him, "Let the Acts remain as they are and let the Punjab Legislature deal with the whole matter as it thinks fit after the fullest examination at their discretion."

But there are one or two points on which I should like to express my own views. Take for instance the right of pre-emption. I was rather surprised at the argument advanced, because in the matter of pre-emption there is no restriction on the right of sale. If there is a restriction it is on the right of the purchaser. Pre-emption presupposes, as it was said, substitution in the sale deed of A.B. instead of C.D. C.D. has been selected by the vendor as the individual to whom he sells his property. The law directs him to substitute another individual who in the opinion of the law is the better individual to purchase. The right of sale is not restricted, nor is the price restricted. Therefore I really do not know for whom my learned friend was raising his voice. Was he raising his voice on behalf of the prospective purchasers? I could not understand it. If the vendor does not want to sell, nobody can compel him to sell. Under the Pre-emption Act there are certain categories already specified: let us say that there are seven categories. This law says that there shall be added to those categories another individual. In the law which was passed in 1950 that individual came as the last in those categories. If there were already 7 the 1950 Act said that the cultivator should be the eighth. The Governor thought that public interest demanded that this new individual, the cultivator, should be the first under that category. The vendor is left absolutely unhurt. Therefore why should there be any protest about it?

Secondly, my hon. friend mentioned that the 12 years occupancy tenancy holder has been given a right to pur-

[Dr. Katju]

chase. I appreciate it and a good deal was said which, if I may say so, left me completely cold. Though I am a sentimental individual myself I was left absolutely cold when mention was made about the *jawans* who are fighting on the front and a lot of other things besides. It was said that all our property is being taken away. But you have already parted with your property in one sense, that land has to be cultivated and you have given away the land for cultivation. And you have allowed others to cultivate it and those others have been cultivating it for over twelve years and they are called occupancy tenants. To use a phrase which became very famous in the United Provinces, by allowing this land to be let out in this fashion almost permanently, you become a rent collector: you are undoubtedly the proprietor, you are entered in the revenue papers as the proprietor, but inasmuch as you cannot eject your occupancy tenant you only are entitled to receive the rent from him. Now, with that restriction, if you do not cultivate the land yourself and you cannot eject the tenant, I really do not understand why there should be such weeping over the so-called ejectment of the proprietor, of taking away the right of the proprietor from him. What does the right consist in? The right consists in receiving rent and I am sure that the Assistant Collector *(Interruption)*. My hon. friends are shaking their hands.

Pandit Thakur Das Bhargava: I beg to be excused but there is a fallacy in the argument. The hon. Home Minister has presumed that after a lapse of twelve years the tenant becomes an occupancy tenant. This is not the law in the Punjab.

Dr. Katju: I beg your pardon. It may not be the law. I stand corrected. But so far as this Act goes it says 'occupancy tenant'.

Pandit Thakur Das Bhargava: This law does not say that.

Shri Sondhi (Punjab): It does not say that. Your argument is not relevant.

Dr. Katju: I do not withdraw the argument. The argument is fairly substantial. But I want to proceed and have done with this motion. What I say is if you do not cultivate the land yourself and if you cannot eject the tenant.....

Pandit Thakur Das Bhargava: Why cannot we eject him?

Dr. Katju: Is that the law?

Shri Sondhi: Yes, that is why the military men want this.

Dr. Katju: If that is so, that the man can be ejected after twelve years, which I do not accept for the time being, well you better go and persuade the Punjab Legislative Assembly to give you that right or to let you have that right.....

Shri Sondhi: But where is the Punjab Assembly?

Dr. Katju: Now, Sir, my hon. friend said that a man who had been in cultivation for twelve years should not be allowed to buy out the proprietorship. I suggest again that the Governor thought fit and the President, on his recommendation, thought fit that this thing should be enacted. Now that thing has been enacted. The Punjab Legislative Assembly will be sitting in two months time and if this thing is such a great grievance affecting all the soldiers of the Punjab and all the sailors of the Punjab and all the other people for whom my hon. friend is speaking, I am sure if it is taken before it, it will get rid of it. But so far as this House is concerned, I submit, with all respect, that it is really not the proper place. We have met here in the concluding session... Every day, sir, you are announcing resignations of two Members, three Members and four Members, and as I said these problems require going into details. Members have got to be conversant with those details. Hon. Members have come here from all parts of India. They are not acquainted with local conditions, they cannot go into these matters in the detail in which my hon. friend has gone into them. I will give him this assurance, very sincere, namely I shall forward all the amendments which he has moved on this Resolution and all the amendments which he proposes to move—I hope he will withdraw them—on the other Acts to the Governor and will ask him to examine everything with the closest care and if there is any administrative inconvenience we shall have it rectified. If there is no right of appeal given on certain assessment of values we shall see that values are properly assessed; there should be proper investigation and there should be no unfairness on that point. If it requires even any further amendment of the legislation we shall do it. Secondly, I shall also ask the Governor, and when the Ministry takes office I shall say

to them, "Well, this is a matter of great importance, it has engaged the attention of the President. You now examine it on its merits completely unaffected by what the President has done." My hon. friend said he is very nervous: he said, here is this Act which bears the imprint of the President of India and therefore anything which goes out into the world bearing that imprint will carry great weight. Of course he is right, the President's imprint is a great thing, but the Constitution itself says that after twelve months that imprint will be completely washed out, it will disappear, fade away. I shall therefore impress on the Punjab Ministry and also on the Governor that what is going to fade out within twelve months they may take as faded out when they are considering their own Bill and their own measures and decide on every single point on its own merits. There they are; they come here elected on adult franchise, and there is great divergence of opinion. My hon. friend has expressed one opinion, my hon. friend from Hissar has expressed another opinion, Giani Gurmukh Singh who occupies a very high place in the public life of Punjab has expressed a third opinion, the hon. Member who spoke earlier, Mr. Gautam expressed a fourth opinion, and the *Shriman* (Babu Ramnarayan Singh) over there said he was horrified at the state in which he found the peasants in the Punjab: he thought they were a very flourishing community.

Shri Naziruddin Ahmad (West Bengal): It is just like Punjab—they are differing and quarrelling on small matters.

Dr. Katju: He was horrified. Everything has to be gone into. So, I would respectfully say that we are really very happy to have my hon. friend as a Member of the House, but I am sure he will go for ten—twelve days to Simla or Chandigarh and speak to the hon. Members there, members of the new Punjab Assembly, and try to persuade them round to this view, make them reduce or raise the figures from 50 to 75 or 100 to 150, and see where they stand. One view is that in the hill tracts the area could be larger. I have heard it said by other Members here that it is intolerable. Giani Saheb said that he has got actually resolutions in his pocket in which the cultivators say that from the hilly tracts it is absolutely impossible for any proprietor to look after, manage or supervise the holding of more than 50 acres. How can this House go into these matters here? The Governor did it, he thought 50 was quite reasonable.

Then there was another point, garden lands. I looked into the history of this matter. In the Punjab it seems under the rulings of the Punjab High Court, Chief Courts and other Courts garden lands have always been included in the definition of the word land. Is that correct?

Pandit Thakur Das Bhargava: Quite correct.

Dr. Katju: That is correct. Now my hon. friend says that the Governor has done wrong in including it there. Well, if that is so, why not say it in the Punjab Assembly? In the Punjab for the last sixty years the word "land" has been taken to mean and include garden land. The Governor has done it and the President has adopted his recommendation. If you want that in this particular instance a change should be made, then I say: go to the local legislature.

My hon. friend said that he could not understand a particular clause. I have myself been in that predicament in many cases. If you will just go into another room in this Parliament House, you will find that learned lawyers and even learned Judges are saying that they are unable to understand what the Constitution framers meant. That is what happens about even the Articles of the Constitution. My hon. friend put a poser to me. He asked me what sub-section (V) of section 12A meant. Of course, my opinion is not authoritative, but I thought that what it meant was really this, namely, this Act insisted upon twelve years actual cultivation. If you do not cultivate by reason of your lunacy, by reason of your minority, by reason of your infirmity, or by reason of your being a woman, you are out of it. That is what it meant to me and I think the language is fairly clear. The insistence is upon actual cultivation. That is supposed to be the greatest merit. It is a matter of principle. If you agree with it, you agree with it. If you do not agree with it, it is for you to stick to that opinion.

I quite realise the point made by my hon. friend, namely, why we are so tender to occupancy tenants. He asked: You do a lot of things for the cultivators, but what about the sub-tenants? This is a rather attractive point and I do hope that the Punjab Legislative Assembly will give due consideration to it. My hon. friend has not done much for them. He said it only as a matter for argument. He said it is discriminatory. You single out the occupancy tenants as the object of your benefaction but you omit the sub-tenant. That is what he said.

[Dr. Katju]

Now, if there is an omission, I do hope it will be corrected. But the basic thing is that cultivation is the vital point in the case. Four years give you the right of pre-emption; twelve years give you the right to buy out the proprietary rights. Then my hon. friend asked: What is the good of your saying anything about pre-emption? The Punjab High Court is now considering the point that the whole right of pre-emption is inconsistent with the Constitution. I am aware of that argument, because not only in Punjab but I think in the Calcutta and the Bombay High Courts also it was held long ago that the right of pre-emption is opposed to public policy or something like that. But in the Punjab, you have got the Punjab Pre-emption Act. So long as that Act stands on the Statute Book, it is open to the Governor in this Act to add categories. If the Punjab High Court or the Supreme Court holds that the right of pre-emption is not enforceable in the Punjab, then the right goes. Why do you blame the President or the Governor for taking the law as it stands and adding categories to it?

I think I have practically dealt with every point that was raised. In passing I may mention something that was said about *banjar* land. It is either cultivable or is not cultivable. If a particular proprietor has got a lot of *banjar* land which he will not cultivate, I think he is doing a disservice to the country. All of us talk here about the necessity of having additional food grown. How is that possible without *banjar* land being brought under cultivation? So, I do not see for the present why there should be any softness for *banjar* land and why it should be said that *banjar* land should be excluded from the category of permissible land, and it should be open to a proprietor to have even 200 acres of *banjar* land and above all I do not understand why it should be demanded that *banjar* land should not be added into this 50 acre or 100 acre or 200 acre limit.

Pandit Thakur Das Bhargava: I may be excused for interrupting him. But I may point out that there is at present a law in the Punjab whereby if there is any *banjar* land the Government can itself lease out that land for a period of seven to twenty years.

Dr. Katju: Are you talking of the *banjar* land?

Pandit Thakur Das Bhargava: Yes. *Banjar* land belonging to any person can be taken over by Government and leased out.

Dr. Katju: You say that your *banjar* land can be taken over by Government. I ask you then; why are you unhappy about it. If Government itself leases it out, so much the better.

I am about to close my observations because this resolution must be disposed of by 5 o'clock, otherwise it will be talked out and I do not want that it should be talked out. I very strongly appeal to the hon. Member to give heed to the voices which have been heard here and withdraw his resolution.

Lala Achint Ram said something about water. The point is obvious. I do not know why it should be said that everybody is so unreasonable. He said that if you give out ten acres of land, then the ten-acres' portion of the water also should be allowed to be used.

Lala Achint Ram: Experience has shown that people are unreasonable.

Dr. Katju: It may be. In the first place, water is not so easily divisible as my hon. friend suggests. He was saying that it may be divided on an hourly basis. It is very easy to say these things, but so difficult to manage them. I suggest to you to please leave it to the local authorities. Please leave it to the tenant. Please leave it to the proprietor. Why do you think that everybody is going to be unreasonable? By having these things inserted in black and white, you are only accentuating disputes and animosities. Do you not want to have a more cordial atmosphere?

In the end, I entirely agree with what was said by Giani Musafir Sahib and I suggest that the best course would be to leave every one of these Acts to stand as they are. I have given the House the assurance that in so far as we can do it, we will make it perfectly plain to the Punjab Government. We will not be hurt at all, and we will not be irritated at all, if even all these Acts are re-examined and remodelled and entirely new legislation is brought forward. We will leave it to them. We will beg them to examine the whole situation in an objective manner and see to it that every amendment receives the proper consideration on the administrative level and any inconvenience that there may be is removed as regards the proper procedure for assessment of prices. We shall also insist on proper officers dealing with this matter and seeing to it that every party gets an opportunity of putting forward his case there being no *zabardasti* of any sort. All these

things will be done by executive instructions and if necessary we will even go to the length of bringing in legislation. I hope this will satisfy my hon. friend.

Pandit Thakur Das Bhargava: With your permission, I wish to reply to the arguments.

Mr. Speaker: I am not quite sure whether the hon. Member has got a right to reply.

Pandit Thakur Das Bhargava: My humble submission is that this is a resolution and the mover of the resolution has a right to reply under the ordinary rules of the House. Therefore, I claim that I may be given the right to reply.

Mr. Speaker: Of course, it comes in the form of a resolution. There is no doubt about that, but what I was thinking about was whether it is worthwhile for the hon. Member to go over the matter at any length in view of the assurances given by the hon. Minister and his appeal to him. If ultimately he is going to withdraw the resolution, it is better that he does so at this stage and thus save the time of the House. I am sure that if he has to say anything by way of reply to what the hon. Minister has said, any representation from him will also be forwarded by the hon. Minister.

Dr. Katju: He will be most welcome at any time and for any length of time to come and discuss the matter with me.

Pandit Thakur Das Bhargava: I find that the appeal made by the hon the Home Minister is being supported by you. I do not in the least want to disobey your ruling and submit to it. But at the same time I would request you to kindly give me an opportunity to reply to some of the arguments which have been raised in the course of the discussion. Otherwise, the purpose of this debate would not be realised and many of the misunderstandings would remain uncorrected. The hon. the Home Minister was ultimately pleased to mention that he will be pleased to forward a copy of this debate to the Punjab Assembly. As my reply will be of some use in this respect, I would request you to allow me to reply to some of the arguments.

Lala Achint Ram mentioned that out of a rupee this Bill gives him an anna. He did not enter into any of the arguments advanced by me. Had he only dealt with them I would have taken this occasion to reply to some of them. At the same time he agreed with me that the Punjab tenant should have a fair deal and should be allowed to rise to his full stature. I am very glad that at least on this matter we are agreed.

I am rather amazed at the arguments advanced by my hon. friend Giani Gurmukh Singh Musafir. He however conceded the fact that my arguments about the army, and the question of maintenance of widows were good. But he wanted to find remedies for these ills subsequently, not at the time the Bill was enacted. He refused to consider the question on its merit. He was led away by the General Elections. He should at least have taken the trouble of answering some of the points which I raised. Since he has not done it, I brush his points aside.

So far as my hon. friend Mr. Gautam is concerned, I have a word to submit to him. He agrees with my main proposition and I am glad that he does that. But he has put me a counter question; what right has he to do that? He accepts the principle of horizontal levelling up. For the last hundreds of years in the Punjab this right of getting land in this way has not been given to the tenants. Now my friend Mr. Ram Narayan Singh is opposed to tractor cultivation: in the same breath he wants to see it encouraged. When the Government of India spend crores and crores of rupees for the purchase of tractors, is it not their policy to encourage tractor cultivation? If that is so what is wrong in my suggestion that the ceiling should be raised to 75 acres? Why have you fixed the ceiling in this case alone?

I was rather amazed by the arguments of the hon. the Home Minister who started by saying that in this House people do not know the local law. He showed such colossal ignorance of the law of the Punjab that I was surprised at it. The gravamen of his argument was that after twelve years a person gets occupancy rights and he cannot be ejected. But he fails to see that in the Punjab this is not the law. He cannot get occupancy right even after a thousand years.

Dr. Katju: I think that ought to be corrected.

Pandit Thakur Das Bhargava: You have not corrected it in the whole of India. You have appointed a Planning Commission. The Planning Commission said that there ought to be an agrarian reform. I am not opposed to it. I wish that you make every tiller of the soil.....

Dr. Katju: In the United Provinces the occupancy tenant cannot be ejected.

Pandit Thakur Das Bhargava: You do not know what is happening in the Punjab. I would rather like that you examine the laws of the Punjab.

Babu Ramnarayan Singh said that he was horrified to see the condition of the Punjab tenant. I do not know what his mental outlook is. Does he for a moment mean to say that the Punjab tenant is worse than the Bihar tenant or a Bengal tenant?

Babu Ramnarayan Singh: Yes.

Pandit Thakur Das Bhargava: Then all that I need say is that I don't agree with him.

He supported me in many matters in which the hon. the Home Minister did not support me. He was kind enough to say that pre-emption of tenancy may be allowed but not pre-emption of any other land. The hon. the Home Minister would not go into this question. He put me a counter-question—in whose interest are you saying that it should not be? I give you an example. A land of 200 acres is being sold. In preference to sons, joint owners, occupancy tenants and biswedars, this man who has come just into the village wants to get a preference over them all.

Dr. Katju: My reading of the present law is that the tenant only gets the right of pre-emption in the land which he is cultivating out of the land sold.

Pandit Thakur Das Bhargava: I am very glad the hon. Minister has given out his whole case, which he had built up. He agrees with me. But he does not want to examine it here. He wants it to be sent to the Punjab Assembly to be examined. He says that the heavens are not going to come down if this law is not changed. This is an argument which it is open to him to advance; but I cannot

I am, however, thankful to the hon. the Home Minister for the assurance he has given. If any other person were in his place, he would not have done any the better. I and the people of the Punjab are obliged to him for the assurance that he has given. But this is a sad commentary on our Parliament and the President's power of law-making for the Punjab. When that matter came up before this House I took great pains to point out that that power should not be given to the President, but should vest in the Parliament. At that time I was told that it was open to this House to modify the law by resolutions moved in this House. Now when I come forward with a resolution I am asked to go to Simla or to Chandigarh. So, this right of modification of which much was made during last session is illusory. I submitted then—and I submit it now—that when we gave this power to the President we made a mistake.

When this power was given to the President neither the hon. the Home Minister nor his predecessor would have ever thought of its being utilised for bringing in a legislation to capture votes. It is not he, but it is somebody else who put pressure upon the Government there and on the Home Ministry here. They brought a deputation for this purpose; but they did not succeed. But somehow or other on the eve of the elections this measure was enacted. Again on the 18th of January, when the elections were over, another Bill was brought in, the levy of Punjab betterment charges Act which we are going to take up after discussion on this resolution is over. The Bills were to come. Why were they not passed on the same day? When the elections were over this latter Bill was taken up. I do not say that the hon. Minister did it deliberately. It may not have even occurred to him. All the same my humble submission is that the gravamen of my charge remains. Why did they enact it if they thought that it was of no use and that no person would be benefited or injured? What was the use of enacting this legislation? There was absolutely no use except that you have unsettled many people's rights and that many cases will come to the courts. Even these people will try to pre-empt. This is not a matter to be played with. As a matter of fact the Government of India and the President have played with the rights of the people by this enactment for a few days.

I accept my hon. friend's request. He says I should not press it. I am not going to press it. I know the result also. But I am not at the same time dismayed by what my other friends have suggested or discussed. This is an everyday matter. Where is the Bill on which people do not differ? What is the use of saying that Shri Achint Ram save like this and Giani Gurmukh Singh Musafir says like that I respect their views. We are bound to differ. The matter has to be considered dispassionately and it is no excuse to say that the three of us differ. Another person says "You Punjabis fight with one another". Is this the manner in which the matter should be discussed?

I do not want to go deeply into the arguments. Many of the arguments about *banjar* lands etc. which have been advanced go to show, as the hon. Minister himself stated, that he does not know the law of the Punjab. And what about gardens? If those are land for some purpose are those land for all purposes? Is there only one law which governs it? What will happen if gardens are not cultivated? What about the hilly area? If Sardar Gurmukh Singh Musafir says that three or four people from the hilly areas have told him that big units in hilly areas are not manageable, does it prove that they are more fruitful than ordinary lands? Is it his contention that in the ordinary lands the producers produce less than in the hilly areas? After all, when we want to fix the ceiling on land we ought to go by what the land produces and not by the consideration whether it is manageable or not. Sometimes even one hundred *bighas* may not be manageable; it may be mountainous land. But the produce is not the same. In the plains it is much greater.

I again express my thanks to the hon. Minister for the advice that he has given me and also thank him for the manner in which he has addressed himself to this Bill, which I never expected of him at least. I thought the Government of India were serious about this and that they would support it by some arguments. But without going into the arguments, and even agreeing with me in some respects, he refuses to go into the matter and asks me to go to the Punjab. I will only submit, Sir, that I will go to the Punjab.

Mr. Speaker: What is the position now?

Shri J. R. Kapoor (Uttar Pradesh): He is going to the Punjab!

Mr. Speaker: At any rate the Resolution cannot be sent over to the Punjab! I take it that the hon. Member wishes to withdraw the Resolution.

Dr. Katju: May I make the same request in regard to the other Resolutions?

Pandit Thakur Das Bhargava: I do not think they can be dealt with now. So far as this is concerned your advice, is certainly one which nobody in this House will ever think of disregarding.

Mr. Speaker: I assume that the other amendments are not going to be pressed, those which stand in the names of Lala Achint Ram—there is one in his name—and all the others, which are in Pandit Thakur Das Bhargava's name, so far as this particular Resolution is concerned.

The hon. Member wants to have the leave of the House to withdraw the Resolution.

The Resolution was, by leave, withdrawn.

RESOLUTION *RE* PUNJAB DISTRICT BOARDS (AMENDMENT) ACT 1951

Mr. Speaker: We will now proceed to the next item, relating to the Punjab District Boards (Amendment) Act. Is any Resolution going to be moved now with regard to that?

Pandit Thakur Das Bhargava (Punjab): I have given two amendments with regard to this Act and they relate to sections 11 and 13. I will take just five minutes to move them.

I beg to move:

> "This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab District Boards Amendment Act, 1951 laid on the Table on the 6th February, 1952 by enacting an amending Act:
>
> **Section 11**
>
> 1. Omit section 11.
>
> **Section 13**
>
> 2. Omit section 13."

My object is to delete these two sections, namely section 11 and section 13 from this Act. If you will kindly look at these two sections you will be convinced that what I am submitting is in the public interest. In regard to sections 11 and 13 it appears that the attempt is to widen the powers of the Deputy Commissioner, or of the Commissioner etc. Section 11 of the amending Act deals with section 45 of the principal Act, and section 45 of the Punjab District Boards Act reads thus:

> "The Commissioner of the division or the Deputy Commissioner of the district may by order in writing, suspend, within the division or district, respectively, the execution of any resolution or order of a district board or local board or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is

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being done, in pursuance of or under cover of this Act, if in his opinion, the resolution, order or act is in excess of the powers conferred by law.....etc."

The provision in section 11 of the amending Act is that in section 45 of the principal Act, after the words "conferred by law" the words "or is contrary to the interests of the public or is likely to cause waste of, or damage to, the funds or other property of the board" shall be inserted. This amendment enhances the powers of the Commissioner of the division or the Deputy Commissioner of the district to the detriment of the powers enjoyed by the president of the board or the entire board. We are now dealing with the decentralisation of powers. Even this Act, in a measure, puts the elected element over the nominated element. The new Act which we are considering, as a matter of fact, gives support to the principle that in the local bodies, the elected element should predominate and they should administer the affairs of the local boards, etc. So far the principle is good. Even non-official nominated Presidents are being done away with and the elected Presidents are being substituted. But, when we come to the provision under consideration, what would happen if the decision of the Board, consisting of 25, 50 or 45 Members, is set at naught and the Deputy Commissioner or the Commissioner, whoever he may be, is given the right to hold that that decision is not in the interests of the general public. The words 'interests of the general public' are too fluid. Any Deputy Commissioner or Commissioner can hold that the interests of the general public require something contrary to what the Board has done. This, in effect, means that you substitute the opinion or conclusion of one person over the conclusion or opinion of the entire body of the Board. I submit that judging from the present trend of the policy of decentralisation of powers of every Government in the world, these powers should not be given to the Commissioner or the Deputy Commissioner. We do not know in how many cases the Boards have erred in this way. There is no necessity for any change in the law and I for one should think that so far as this question is concerned, we should not depart from the accepted principle and invest the Commissioner of the Division or the Deputy Commissioner with such plenary powers over the Boards so that they may be able to annul everything that the Boards want to do. I know in the Punjab, in some places, it has happened like this: The membership of some of the Members of the Boards and the Members of the Committees have been scored off. There have been complaints by those Members. It so happens that if the Commissioner or the Sub-divisional officer is angry, with a Member, he finds fault with the Board or Committee and recommends to the officers to score off their names. They are not even heard in defence. Their names have been scored off. If we want that these local boards and Committees should work in an independent manner, in a manner in which all of us like them to work, it is necessary that their powers should be preserved and the powers of the Commissioner or the Deputy Commissioner should not be enhanced. These powers already exist there. The Commissioner or Deputy Commissioner can hold that the action is in excess of the powers conferred by law. If he holds that the execution of the order is likely to lead to a breach of the peace or cause injury or annoyance to the public or to any class or body of persons, the remedy is already provided. We need not supplement the powers that are already there. When the question is whether the local board should be invested with these powers or the Commissioner or Deputy Commissioner, I for one would like that the Board should be invested with these powers, even though they may occasionally commit mistakes. After all, the Board is the proper body which can look to the general interests of the public much better than the Commissioner or Deputy Commissioner who is sitting at the headquarters of the Division. Therefore, my submission is that so far as section 11 is concerned, we are not justified in making any change.

With your permission, Sir, I will now come to section 13. I submit, that this section is still more drastic. The present section is good enough. Under section 59 of the original Act, a Member of the Board is held liable for anything wrong done by him. It runs thus:

"Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a local board or of the district board, and a suit for compensation for the same may be instituted against him in such court as the Provincial Government directs by the district board with the sanction of the

Commissioner, or by the Provincial Government."

Is this rule not enough? In proper cases, if there is anything wrong, with the sanction of the Commissioner or the Provincial Government, the District Board can bring a suit against a member, and if there is any loss as a direct consequence of his misconduct, neglect, etc., the member can not only be sued, but the money is recoverable. May I humbly know if this Rule may be made applicable to Members of Parliament also? If a Member does not attend or do his duty, and loss occurs to the Government, will he be prepared to be placed in a position like this? I submit the existing provision is good enough so far as it goes. I have no quarrel with that. It is good that every member is made responsible for his neglect, misconduct, etc. At the same time, if you pursue the matter still further, and make a provision and make it hang like the sword of Damocles that by executive action, you can take such action against the member, you will be really striking at the root of local self-government. The new section says that instead of bringing a suit in this manner, by executive action, he shall be called upon to show cause by written or oral representation why he should not be required to make good the loss, be surcharged with the amount of such money or the value of such property by the Deputy Commissioner. So that every member will be within the hollow of the hand of the Deputy Commissioner. If he does not like a member, he can send a notice and by executive action he can recover the moneys as arrears of land revenue. The amendment goes further and says:

> "The person against whom an order under sub-section (1) has been made may, within thirty days of the order, appeal to the State Government or to any officer specified by the State Government in this behalf, and the appellate authority may confirm, modify or revoke the surcharge:
>
> Provided that nothing in this section shall be deemed to debar the aggrieved party from seeking his remedy in a civil court....."

Instead of asking the District Board to go to the civil court and recover any loss which has been occasioned by the neglect of the member, that member is driven to the civil court. Money is realised from him by executive action.

Further on, sub-section (3) goes on to say:

> "Where the amount surcharged under this section is not paid within fourteen days of the expiry of the period of appeal specified in sub-section (2) or, where an appeal has been preferred under sub-section (2) within fourteen days of the order passed on such appeal, the Collector, at the request of the Deputy Commissioner, shall forthwith proceed to recover the amount in the same manner as an arrear of land revenue and have it credited to the district fund."

Last time, when we considered another Bill, I had occasion to submit for your consideration the manner in which land revenue was recovered. This is a very drastic provision. My humble submission is that if you make this law, no respectable man would like to become a member of a district board because it may happen that in the discharge of his duty, if he takes such steps as displease the Commissioner or the Deputy Commissioner or the Sub-divisional officer or any other person, it will become too hot to work independently. If you want that the members of the district boards should remain independent, if you want the local boards to work with honesty and independence, it may happen that on occasions the members will not be able to meet the wishes of the Sub-divisional officer or the Deputy Commissioner. If you allow action to be taken by virtue of a flat, by executive action, they may be judges in their own cause and proceedings to recover the losses may be taken as if they were arrears of land revenue. My submission is that nobody will work with independence. The present law is good enough. A suit may be brought in a civil court by the district board. To ask the elected member to go to the court and get the order of the Deputy Commissioner or Commissioner vacated would be very hard. We should not put the burden so heavily.

Therefore, I submit that these two amendments are not proper. The rest of the Act has been, as a matter of fact, tried to be amended in the right spirit because the President has been pleased to see that the principle of election is substituted for nomination. While all these provisions are salutary, I seriously object to these two provisions. I beg the hon. Home Minister to see here at least, in the matter of local self-government.—the Government is very much interested in seeing that the Constitution works properly—in the interests of the smooth working of the Local Boards Act, that the elected members should enjoy the confidence of the public and have more powers and are enabled to work in an independent way; if they go wrong, the remedy already exists. We need

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not enlarge them. This is all I have to submit.

Mr. Speaker: Resolution moved:

"This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab District Boards Amendment Act, 1951, laid on the Table on the 6th February, 1952, by enacting an amending Act:

Section 11

1. Omit section 11.

Section 13

2. Omit section 13."

4 P.M.

बाबू रामनारायण सिंह: सभापति महोदय, यहां पर मैं ठाकुर दास जी का समर्थन करता हूं। यह समझ में नहीं आता कि इस पार्लियामेंट (Parliament) में इस तरह का संशोधन लाया जाय कि लोकल बोर्ड (Local Board) और डिस्ट्रिक्ट बोर्ड (District Board) के प्रस्ताव को कमिश्नर (Commissioner) या डिप्टी कमिश्नर (Deputy Commissioner) रोक दे और चालू न किया जाय। यह तो बहुत आखिरी दरजे का रीऐकशनरी (reactionary) कार्य मालूम होता है और मैं गृह मंत्री जी से भी कहूंगा और हाउस से भी कहूंगा कि इस तरह की बातें नहीं होनी चाहियें। यह बात तो जरूर मान लेनी चाहिये, जैसा कि ठाकुर दास जी कहते हैं कि डिप्टी कमिश्नर या कमिश्नर को यह अख्तियार किसी हालत में नहीं होना चाहिये कि डिस्ट्रिक्ट बोर्ड या लोकल बोर्ड के प्रस्ताव को वह रोक दे। हां, गवर्नमेंट उस को रोके तो वह तो दूसरी बात है, लेकिन किसी एग्जीक्यूटिव आफ़िसर (executive officer) को यह अख्तियार नहीं होना चाहिये।

(English translation of the above)

Babu Ramnarayan Singh (Bihar): Sir, I support Pandit Thakur Das Bhargava in this matter. It is unthinkable that an amendment should be moved in the Parliament to the effect that a Commissioner or Deputy Commissioner may prevent the operation of a resolution passed by a local or district board. It seems to be an extremely reactionary course to adopt. I want to urge upon the Minister of Home Affairs as also upon this House that such things should not happen. We should accept the amendment moved by Pandit Thakur Das Bhargava that the Commissioners or Deputy Commissioners should have no powers to reject the decisions of local or district boards under any circumstances. It is a different thing if the Government also decide to reject them, but under no circumstances should this power be vested in any executive officer.

The Minister of Home Affairs and Law (Dr. Katju): My hon. friend probably unconsciously has conveyed an impression here that these two sections as now introduced are the product of the imagination of the Governor or his advisers. That is not the case. As a matter of fact, there is a history about it. This District Boards Act, the House would have noticed, is of the year 1883, that is to say, sixty or seventy years old. Thereafter, after twenty or thirty years, the Punjab Municipal Act was passed and in that Act there are sections 232 and 250 in identical language. It was considered by Government desirable that the two Acts should be parallel, and inasmuch as the District Board Act was being modified in material particulars by repealing the old sections 45 and 59, it was brought into line with the Punjab Municipal Act. Nobody has said a word about the propriety of these two sections in the Punjab Municipal Act, I dare say, of course, subject to correction.....

Pandit Thakur Das Bhargava: May I know the justification for the remark that nobody has objected to these sections 45 and 59?

Dr. Katju: So far as I know my hon. friend did not say in his opening speech that these two sections are to be found in the Punjab Municipal Act and that in the Punjab Municipal Act they have given rise to great objection and there has been a hue and cry, and that instead of repealing those two sections in the Punjab Municipal Act, the Governor has done an atrocious thing in amending this Act here. He said nothing of that kind. On the other hand he said, here is the Governor eager to have authority in himself...

Pandit Thakur Das Bhargava: I never said that.

Dr. Katju: .....or the Deputy Commissioner. But let me remind my hon. friend that all of them will act subject to an elected Ministry. You see, I am myself interested—if I may make a personal observation—in good municipal administration; and I know how these bodies function. I think—and that is my personal opinion—that while we allow these local bodies great latitude for managing their own affairs, we cannot shut our eyes sometimes to what does happen. If these powers are given, they will be utilised only in the most rare cases and they will have a very salutary effect in the case of orders passed owing to party factions or this thing or that. And then again, I come back to the stock argument that this will disappear within one year. Everything will disappear in one year. The Act will be gone. And so I repeat myself, "Go to the Punjab Legislative Assembly."

Pandit Thakur Das Bhargava: For seventy years it has stood the test of time and if this is not done for these few months, will the heavens fall?

Dr. Katju: In the Punjab it has stood for forty years and this is the forty-first year. We do not want to discriminate between the District Boards and the Municipal Boards, and the Municipal Boards are entitled to greater independence. But the hon. Member never raised his voice about them, but he talked only of the District Boards.

I am not in a position to accept the hon. Member's motion and I will beg of him to withdraw it.

Pandit Thakur Das Bhargava: Then I think so far as section 59 is concerned, the hon. Minister accepts my proposal?

Dr. Katju: No, I am sorry I was carried away by my own exuberance. So far as section 59 is concerned, it is a most useful provision. As a member of a municipal board, I can say that this creates fear of God in the minds of the municipal members. As it is, they treat public funds as.....

Pandit Thakur Das Bhargava: Is there a similar provision in the Municipal Act?

Mr. Speaker: That is what he said.

Dr. Katju: Yes, it is there in section 50 of the Punjab Municipal Act. In fact, both are copied from the Municipal Act, and I think they have got something of the same nature in the U.P. Act also. It is indeed a very good and salutary provision.

Pandit Thakur Das Bhargava: As the hon. the Home Minister has been pleased to express the wish that I should not persist, I shall not persist. I do not want to take up an attitude which is distasteful to him. But at the same time I submit that his arguments have left me unconvinced. He referred to bringing this Act into line with the Municipal Act, but no case has been mentioned of any member of a District Board being dealt with under this provision, of his misbehaving and the District Officer being unable to curb it. On the other hand, my own experience is that when the executive officer is displeased about some member, he makes a report to the Ministry and orders are received even without hearing the member and his name is scored out from the Board. If you want these bodies to work independently I would beg the hon. Minister to turn a new leaf. It is long before he was a member of a local body in U.P. and now the times have changed. We want more independence now. We want the representatives to work honestly and the thumb of the executive should not be brought to bear upon them. I know how things are happening in the Punjab, and I can assure the Home Minister that the more faith he has in the elected representatives and in the growing consciousness of the people the better would it be for the country and for himself. I would beg of him to consider it dispassionately and to make a recommendation that the Punjab Ministry may look at the question in the same way in which he was pleased to direct them to look at the other Act.

Mr. Speaker: In view of what has fallen from the hon. Home Minister, I will put to the House not the Resolution, but whether the hon. Member has leave of the House to withdraw his Resolution.

The Resolution was, by leave, withdrawn.

Mr. Speaker: Now that the matter is closed, I may just say that there are similar provisions even in the Bombay Acts. But that...

Pandit Thakur Das Bhargava: Was any action taken in Bombay under those Acts against any particular Board member?

Mr. Speaker: But that is a different matter, I would not like to participate in the debate. Section 59 authorises Government to surcharge, leaving the party to judicial remedies. I was myself defendant in a suit to the tune of Rs. 1,68,000 by the Government of

[Mr. Speaker]

Bombay on the alleged ground of misapplication of municipal funds which arose out of political circumstances. But we are not concerned with that here.

Pandit Thakur Das Bhargava: It is only our indication of what I said that these provisions are often abused.

Mr. Speaker: Whatever that may be, we will now proceed with the next resolution No. 3 which stands in the name of Pandit Thakur Das Bhargava, for modifications to be made by the President in the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1951.

RESOLUTION *RE* PUNJAB OCCUPANCY TENANTS (VESTING OF PROPRIETARY RIGHTS) ACT, 1951.

Pandit Thakur Das Bhargava (Punjab): The real issue is that they have computed the price of landlord's rights but these rights include not only cash rents. There are other rights of proprietors, like rights in trees, reversion, resin rights etc. You say that you will not give any compensation; I have no objection. But if you make a law, make it a good law applicable to everybody. If you want to pay any compensation at all, it should be fair compensation. There is no fairness in making the figure twenty-five. My point is that in this case only the cash rent has been taken into consideration but the other rights have not been taken into consideration in the matter of computation. You do not give them anything for resin rights, rights in trees and rights of reversion and other rights. If you give them compensation, let it be fair compensation. Our article 31 says that you must give them compensation and that is just compensation and not any compensation.

Mr. Speaker: Shall I put it to the House?

Pandit Thakur Das Bhargava: Just as you please.

The Minister of Home Affairs and Law (Dr. Katju): Has he moved it?

Pandit Thakur Das Bhargava: I beg to move:

> "This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1951 laid on the Table on the 6th February 1952 by enacting an amending Act:—
>
> **Section 5.**
>
> 1. That in sub-clause (i) of clause (a) of section 5, for the word "twenty-five" the word "forty" be substituted.
>
> 2. That in sub-clause (ii) of clause (a) of section 5, for the word "twenty-five" the word "forty" be substituted.
>
> 3. That in the Illustration (A) of section 5,—
>
> (i) for the figures "25" the figures "40" be substituted; and
>
> (ii) for the figures "1,500" the figures "2,400" be substituted.
>
> 4. That in the Illustration (B) of section 5,—
>
> (i) for the figures "25" the figures "40" be substituted; and
>
> (ii) for the figures "1,750" the figures "2,800" be substituted.
>
> 5. That in sub-clause (i) of clause (b) of section 5, for the word "twenty" the word "thirty-five" be substituted.
>
> 6. That in the proviso to sub-clause (ii) of clause (b) of section 5, for the word "one-fourth" the word "one-third" be substituted.
>
> 7. That in sub-clause (iii) of clause (b) of section 5, for the word "twenty" the word "thirty-five" be substituted.
>
> 8. That in the proviso to sub-clause (iii) of clause (b) of section 5, for the word "one-fourth" the word "one-third" be substituted.
>
> **Section 9.**
>
> 9. That section 9 be omitted."

I have moved it, but I do not want it to be put to the House for voting.

Mr. Speaker: Unless I put it to the House, the House will not be in possession of it. Resolution moved:

> "This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act,

1951 laid on the Table on the 6th February 1952 by enacting an amending Act:—

Section 5.

1. That in sub-clause (i) of clause (a) of section 5, for the word "twenty-five" the word "forty" be substituted.

2. That in sub-clause (ii) of clause (a) of section 5, for the word "twenty-five" the word "forty" be substituted.

3. That in the Illustration (A) of section 5,—

(i) for the figures "25" the figures "40" be substituted: and

(ii) for the figures "1,500" the figures "2,400" be substituted.

4. That in the Illustration (B) of section 5,—

(i) for the figures "25" the figures "40" be substituted; and

(ii) for the figures "1,750" the figures "2,800" be substituted.

5. That in sub-clause (i) of clause (b) of section 5, for the word "twenty" the word "thirty-five" be substituted.

6. That in the proviso to sub-clause (ii) of clause (b) of section 5, for the word "one-fourth" the word "one-third" be substituted.

7. That in sub-clause (iii) of clause (b) of section 5, for the word "twenty" the word "thirty-five" be substituted.

8. That in the proviso to sub-clause (iii) of clause (b) of section 5, for the word "one-fourth" the word "one-third" be substituted.

Section 9.

9. That section 9 be omitted."

Dr. Katju: It is quite impossible for me to accept this for the very simple reason that taking into consideration the local circumstances, a certain amount of compensation has been provided in this Act itself, i.e. 25 times, 40 times, 75 times and so on and so forth. My hon. friend wants—I will not say in any illogical manner or improper manner—to increase the figures. Now, we cannot go into the question here. As you know, this question of the payment of compensation and the amount of compensation is now engaging attention throughout India in every single Act about these zamindari and other rights. I cannot possibly raise the figures here. This is a matter, I repeat it for the third time, which is for the Punjab Assembly, the new Assembly, to consider and also decide on the amount of compensation that they will grant. There are so many opinions on this. The extreme left says, "Give nothing." The extreme Rights says, "Give the value of the rights plus 15 per cent. according to the Land Acquisition Act." There will be a great fight about this, and you had better go there. It is impossible for me to accept it.

Pandit Thakur Das Bhargava: May I submit a word. As a matter of fact, I know that the hon. Minister is not in a position to determine what compensation should be allowed. My humble submission is that we have taken into account only the cash rent as the Act shows. Either give them fair compensation or do not give them any compensation. After all, these rates are based on certain calculations.

Dr. Katju: You will pardon me. May I say one thing?

[SHRIMATI DURGABAI *in the Chair*]

I just wanted to intervene and inform the House that the rates fixed and mentioned in the Act are those recommended by the Land Reforms Committee appointed by the Government. So, it is not a mere arbitrary thing. The matter was investigated and looked into by this Committee and we have accepted their recommendations.

Pandit Thakur Das Bhargava: I never said that the Government has acted arbitrarily. I know Government has put in here what was recommended by the Land Reforms Committee. My humble submission is that the opinion of this Committee is not the final word. After all, you have based these calculations on certain facts and those facts are given in the Act itself. You have taken into consideration the cash rent. But what about the other rights, the rights to trees, etc? My humble submission is that you have taken into consideration only one aspect of the case. I do not say that you have acted arbitrarily. My submission is that the recommendations of the Land Reforms Committee, consisting of persons interested one way or other, is not final. My point is let it be decided by an arbitrator, by a High Court Judge, or even some revenue official, who is unbiassed. I do not say either that you should accept my calculations as the basis. I only want you to get it examined and do the right thing.

Dr. Katju: I will certainly do it.

Mr. Chairman: Does the hon. Member wish to withdraw his resolution?

Pandit Thakur Das Bhargava: Yes, Madam.

The resolution was, by leave, withdrawn.

RESOLUTION *RE* PUNJAB COTTON (PREVENTION OF ADULTERATION) ACT 1952.

Pandit Thakur Das Bhargava (Punjab): I beg to move:

"This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab Cotton (Prevention of Adulteration) Act, 1952 laid on the Table on the 6th February, 1952 by enacting an amending Act:

Section 4

1. That in the Explanation to section 4, for the words "may reasonably be expected" the words "may be prescribed" be substituted.

Section 7

2. That section 7 be omitted."

Mr. Chairman: Resolution moved:

"This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab Cotton (Prevention of Adulteration) Act, 1952 laid on the Table on the 6th February, 1952 by enacting an amending Act:

Section 4

1. That in the Explanation to section 4, for the words "may reasonably be expected" the words "may be prescribed" be substituted.

Section 7

2. That section 7 be omitted."

Pandit Thakur Das Bhargava: There is only one submission and that is about moisture.

The Minister of Home Affairs and Law (Dr. Katju): What section is that?

Pandit Thakur Das Bhargava: That is in section 4. In the Explanation to this section, the words used are, "may reasonably be expected to contain." Any moisture in cotton which is in both parties are protected. The presence of moisture in excess of the normal amount in cotton, etc. is made a ground of offence. My submission is that you must make it specific. Why say "may reasonably be expected to contain"? My submission is that Government should carry out tests and come to certain conclusions that a certain amount of moisture is allowable and indicate that anything in excess of it will be made a ground of offence. "Reasonably be expected" is all illusory. After all, the punishment you have specified is not negligible. I would appeal to the hon. Minister to consider this submission of mine and make it more definite, more specific. "Reasonably be expected"! I have never seen anything like this in any legislation. I would beg of the hon. Minister just to consider this matter and accept my suggestion, "such moisture as may be prescribed by Government as allowable." I hope that this amendment will be accepted.

Similarly I am opposed to section 7 but that is an old story. I have always been opposing the indemnity clause that anything done by a public servant in the course of his duty which is *bona fide* is not culpable. In every Act some provision is put in by way of indemnity though the general law of the land sufficiently protects him yet the surplus account is always there. I have always been opposed to this unnecessary provision but I do not press it at this stage.

But as regards the first amendment I beg the hon. Minister to consider it and accept it.

Dr. Katju: So far as section 4 is concerned the suggestion of the hon. Member is absolutely impossible, because the Explanation says:

> "For the purposes of this section, cotton shall be deemed to be watered if such cotton contains moisture in excess of the normal amount, the normal amount being the amount of moisture that such cotton may reasonably be expected to contain regard being had to the place or places at or to which, and the time or times of the year in which such cotton has been picked, collected, stored, conveyed, left, ginned or pressed."

That means that you have to see practically every ginning factory and every cotton growing area separately, from village to village, *pargana* to *pargana* and sub-division to sub-division. How can you expect Government to prescribe the proportion? It will be a long list. Hissar will have 500 items and Rohtak 700. The Explanation as it stands is far more reasonable. If there is a prosecution in any particular area

secution says that the normal in that area is that much and the accused can say that the normal was really a little higher. If you press for prescribing it by rules it is an utter impossibility.

As regards the indemnity clause it is a time-worn topic. It has been held over and over again in all law courts that this indemnity clause for public servants of every category is always a good thing in the discharge of their duties. But it is not so alarming as it looks on paper, because there is a general tendency to omit from consideration the governing phrase "in good faith". If any public servant has done something in bad faith, the indemnity does not apply but if he does it in good faith in the discharge of his duty, then the indemnity is against an error of judgment. I submit therefore that it is essential that a public servant acting in good faith should have such indemnity and that is provided in every Act of every description. Therefore I really regret that in spite of my inclination to accede to the request of my hon. friend I am unable to accede to his suggestion.

Pandit Thakur Das Bhargava: So far as clause 7 is concerned I do not want to press my amendment at this stage. I will press it at some other time. As regards the other amendment, if it is impossible for the Government to prescribe the amount of moisture you need not make it an offence. The words are:

> "the amount of moisture that such cotton may reasonably be expected to contain regard being had to the place or places at or to which, and the time or times of the year in which such cotton has been picked, collected, stored, conveyed, left, ginned or pressed."

It means that before any offence is brought home to any delinquent so many things have to be looked into, such as the places where these processes have been gone into, where such cotton was picked, collected, stored, conveyed, left, ginned or pressed. The moisture in all these places have to be gone into regard being had to the place or places at or to which and the time or times of the year. You have to depend merely on the opinion of some expert and under the law the opinion of an expert merely is not sufficient to convict any person. It means that we are dangling this offence in the eyes of the people and it is only to the interest of some officials or experts and none else. It is impossible to bring home this sort of charge to any person. It is better that this law does not exist rather than it should open the door for corruption, blackmailing and fear among the people. I beg that this question may be looked into and, if possible, such a thing be not made a crime, for then it will be better for society and all concerned not to have such an offence on the Statute Book.

Mr. Chairman: I take it that the hon. Member desires to withdraw his resolution.

Pandit Thakur Das Bhargava: I may be allowed to withdraw it as it will go before the Punjab legislature again.

The resolution was, by leave, withdrawn.

RESOLUTION *RE* PUNJAB BETTERMENT CHARGES AND ACREAGE RATES ACT, 1952

Pandit Thakur Das Bhargava (Punjab): I beg to move:

> "This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab Betterment Charges and Acreage Rates Act, 1952 laid on the Table on the 6th February, 1952 by enacting an amending Act:

Section 2

1. That in sub-clause (ii) of clause (c) of Section 2, for the words "arrangements constructed, maintained or controlled" the words "arrangements owned or constructed and maintained or controlled" be substituted.

Section 3

2. That in clause (iv) of section 3, after the word "constructed" the word "and" be inserted.

Section 4

3. That in sub-section (1) of Section 4, after the word "occupancy" the words "or other" be inserted.

4. That in sub-section (4) of Section 4, after the word "occupancy" the words "or other" be inserted.

5. That for sub-section (5) of Section 4, the following be substituted, namely:—

'(5) After considering the objection and after such further enquiry as the Government may think

[Pandit Thakur Das Bhargava]

fit the Government shall prepare the final schedule of betterment charges and lay the same for approval before the Legislative Assembly.

(6) The Legislative Assembly may, if it considers necessary, call further objections and make any further enquiry if it considers necessary and may either approve the said schedule or make any changes therein as it deems proper. The schedule thus approved or amended shall be published in the Official Gazette, and in such other manner as may be prescribed.'

Section 5

6. That in sub-section (1) of Section 5, for the words "one half" the words "one fourth" be substituted.

7. That in sub-section (1) of Section 5, after the word "date", wherever it occurs, the words "within a period of one year" be inserted.

8. That in sub-section (2) of Section 5, after the word "occupancy" the words "or other" be inserted.

9. That in sub-section (2) of Section 5, for the words "one-half" the words "one-third" be substituted.

Section 6

10. That clause (d) of sub-section (1) of Section 6 be omitted.

11. That for sub-section (4) of Section 6, the following be substituted, namely:—

'(4) After considering the objection and other such further enquiry as the Government may think fit, the Government shall prepare the final schedule of acreage rates and lay the same for approval before the Legislative Assembly.

(5) The Legislative Assembly may, if it considers necessary, call further objections and make any further enquiry if it considers necessary and may either approve the said schedule or make any changes therein as it deems proper. The schedule thus approved or amended shall be published in the Official Gazette and in such other manner as may be prescribed.'

Section 7

12. That in Section 7, the words "or the determination by the Government of the increase in value of lands for the purpose of levying betterment charges" be omitted.

Section 8

13. That in sub-section (1) of Section 8, after the word "occupancy" the words "or other" be inserted.

14. That in sub-section (2) of Section 8, after the word "occupancy" the words "or other" be inserted.

15. That in sub-section (2) of Section 8, after the word "appeals" the words "or revision" be inserted.

Section 9

16. That in sub-section (1) of Section 9, for the words "in one or more instalments as may be prescribed" the following be substituted, namely:—

'at the choice of the person charged in one or more annual instalments not exceeding ten.'

17. That in the Proviso to sub-section (1) of Section 9, after the word "rate", occurring in line 3, the words "not exceeding two per cent" be inserted.

Section 11

18. That in Section 11, after the word "occupancy", wherever it occurs, the words "or other" be inserted.

Section 14

19. That in Section 14, for the words "under this Act", the following be substituted, namely:—

'for the levy recovery or apportionment of betterment charges and acreage charges.'

Section 15

20. That for Section 15 the following be substituted, namely:—

'15. *Indemnity from proceedings.*—No claim shall lie against the Government for compensation or for the refund of betterment charges or acreage charges on account of loss occasioned by the failure or stoppage or decrease of water in a canal due to any cause beyond the control of the Government or to any repairs, alterations

or additions made to the canal by the Divisional Canal Officer or other officer to any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where he considers such action to be necessary provided such loss was not due to the misconduct, neglect or carelessness of the officer concerned.'

Section 16

21. That Section 16 be omitted.

Section 17

22. That in clause (j) of sub-section (2) of Section 17, after the word 'occupancy' the words 'or other' be inserted."

This Act was promulgated on the day when the elections were practically over i.e. on the 18th January, because it is something which is sure to set any person in those areas which will be watered subsequently by the Bhakra project a-thinking. This project, as you know, was conceived some 40 years ago and the people who are to be benefited by this dam have been waiting all these years for the water to come but it has not yet come. Soon after Partition in 1947 we waited on the Prime Minister and submitted to him that the Punjab has gone to ruins, all our water had been taken away and the displaced persons who were enjoying irrigated land would be put to great trouble. One of the Governors of the Punjab when he went to Hissar once said that this part of the area is an unfortunate land but that he wanted recruits from there and so did not want to see it irrigated. We have been looking for the Bhakra Dam with impatience but it is still far off. A few days ago I saw in the papers that some officials of the Punjab were sent abroad to bring machinery from America and the project has to be delayed till it arrives. In 1947 the hope was held out to us that after four years we shall have water from the Bhakra. It is now 1952 and Bhakra is not yet complete. I do not think it will be complete for another five years or more. During the elections in the Gurgaon constituency we have been telling the people that as soon as Bhakra is completed the people will have plenty of electricity, electric tube-wells and all fields will be watered. As a matter of fact we have been considering the old question of security of tenures but this question is meaningless unless and until we get the Bhakra Dam. Whom do you want to protect? If you go to Hissar district you will find nothing but disappointment, helplessness, frustration and famine. If you go to the towns you will find the middle class people cursing our Government. Their means of livelihood have been decreased and they are not earning as much as they used to do before. There is no prospect of seeing these waters for another five years. Yet the betterment scheme has come before us. If you give us the water, then take whatever you want. But at this stage to give the people the idea that they will have to spend a good amount when the Bhakra water comes is a thing which I do not like. The Government should have waited and nothing would have been lost. This Act is not going to materialise very soon, before April or May. What then is the hurry to tell the people that they have to pay so much. You say that it will be half the amount, being the difference between the price which obtained before on a day which the Government will fix and the price on a day fixed by the Government after the scheme has been commenced. In between half the difference will be realised. If the price of land was 100 then and it is 200 now, at least Rs. 50 everybody will have to pay. But I have described the condition of the village people in Hissar, which is the main district which is going to be benefited by Bhakra. At this time, I very humbly beg to ask the hon. Home Minister, when the whole district is in the throes of a grim famine, when our cattle are dying, when people have fled from their houses to other places to earn their livelihood, is it the time to tell us that betterment charges will be taken from us? Nothing would have been lost if this enactment had come after the rains had come. This is the most inopportune time to enact a measure of this kind. Many people do not know so far what is in this measure but if people come to know of it there will be great dissatisfaction. When better times come, when you think there is a prospect of getting the waters early you may enact this measure. I know the Punjab Government has taken this money from the Government of India by way of loan and something like Rs. 130 crores are going to be spent on Bhakra. I know that; I do not shirk any responsibility in that regard. I also am an owner of some lands which will be benefited by the Bhakra dam and I want that people should contribute, but at the same I do not want to contribute to the extent you want me to contribute. This is a matter which has yet to be gone into. After all, Punjab is a land of canals. Previously, except for the Havelian project, what other districts had paid betterment fee for all the advantages of irrigation? Only in the Havelian project perhaps for the first time Gov-

[Pandit Thakur Das Bhargava]

ernment wanted these betterment charges.

When the Punjab Ministry was in office nobody thought of bringing this Bill forward then. Now that the Punjab Ministry is out and our people are not there you can put half the amount, you can put three-fourths, but it will not be accepted by the people. I have submitted an amendment that after all the investigations are made then you may put the entire matter before the Legislative Assembly. I do not want that some revenue officer should decide it behind the back of the Legislative Assembly. In all matters of taxation we know that the local Legislative Assembly has the right to levy taxation. Therefore, I have suggested in my amendment that when the final schedule is prepared it may be put before the Legislative Assembly so that by their sanction, by the will of the representatives of the people the amount may be determined. The next thing that I have submitted is that you should not fix it at half but make it one-fourth, because even now with the expenditure of this Rs. 130 crores, I understand—I cannot vouch for the truth of the information, but my information is—that this is a good investment, that it is going to yield better results than what other investments give you. I do not want that the people alone should be benefited by the improvement, the Government has also a right to some part of it, but my case is that the people should be asked to pay a reasonable amount. After all, for all these years we have paid the land revenue without even a good return to us. I happen to be a land owner there and I have been paying land revenue for the last thirty years without realising anything from the land which is now going to be watered by the Bhakra project.

So far as the question of instalments is concerned, the present wording is, "in one or more instalments". I have submitted that it should be done at the choice of the person charged, in one or more annual instalments not exceeding ten. This unearned increment may be taken, but not all at once.

The percentage of interest I have put at 2.

I do not know how my hon. friend, the Home Minister will react to these proposals. I know his reply beforehand: he will certainly say that this will be passed on to the Punjab Assembly to go into the matter. (*Interruption*). When this thing is brought for the first time before a member of the public he should be allowed to have his say that we do not accept it. We want that the Government of the day should take our grievances into consideration and should not realise more money than what the poor people can pay. After all, we have been waiting for this project for such a long time. Whereas the rest of the Punjab has been enjoying irrigation we have been under difficulty for scores of years. Therefore, I only want that Government may not decide the question in the manner given in the measure, but that the whole matter may first be laid before the local Legislative Assembly so that the people's representatives may be able to decide it finally. As I said, these are some of the amendments I have suggested. I am going to agree to what the hon. Minister will say. I have submitted this issue in all humility so that he may be pleased to extend to my humble submission the same treatment which he has been pleased to promise in regard to the other Acts.

One more point. In regard to indemnity also I have submitted an amendment but as these questions are not going to be finally decided here nothing will be gained by my expatiating on them. At the same time, I have suggested that where the loss has been due to the misconduct, neglect or carelessness of the officer concerned, then it should be compensated by the Government. Sections 44 and 45 in the District Board Amendment Act say that the elected member is responsible if something happens on account of his neglect. I want the same treatment given to a public servant and if loss takes place on account of the misconduct, neglect or carelessness of the officer concerned he should be held responsible. Therefore, I do not like the indemnity clause to be as wide as it is in the Act.

In conclusion, I would beg of the hon. Home Minister to kindly consider these amendments in a sympathetic spirit and extend to them the same treatment which he has already stated he will extend to the other modifications.

Mr. Chairman: Resolution moved:

"This House resolves that in pursuance of sub-section (4) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951, the following modifications be made by the President in the Punjab Betterment Charges and Acreage Rates Act, 1952 laid on the

Table on the 6th February, 1952 by enacting an amending Act:

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3. That in sub-section (1) of Section 4, after the word "occupancy" the words "or other" be inserted.

4. That in sub-section (4) of Section 4, after the word "occupancy" the words "or other" be inserted.

5. That for sub-section (5) of Section 4, the following be substituted, namely:—

'(5) After considering the objection and after such further enquiry as the Government may think fit the Government shall prepare the final schedule of betterment charges and lay the same for approval before the Legislative Assembly.

(6) The Legislative Assembly may, if it considers necessary, call further objections and make any further enquiry if it considers necessary and may either approve the said schedule or make any changes therein as it deems proper. The schedule thus approved or amended shall be published in the Official Gazette, and in such other manner as may be prescribed.'

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6. That in sub-section (1) of Section 5, for the words "one half" the words "one fourth" be substituted.

7. That in sub-section (1) of Section 5, after the word "date", wherever it occurs, the words "within a period of one year" be inserted.

8. That in sub-section (2) of Section 5, after the word "occupancy" the words "or other" be inserted.

9. That in sub-section (2) of Section 5, for the words "one-half" the words "one-third" be substituted.

Section 6

10. That clause (d) of sub-section (1) of Section 6 be omitted.

11. That for sub-section (4) of Section 6, the following be substituted, namely:—

'(4) After considering the objection and other such further enquiry as the Government may think fit, the Government shall prepare the final schedule of acreage rates and lay the same for approval before the Legislative Assembly.

(5) The Legislative Assembly may, if it considers necessary, call further objections and make any further enquiry if it considers necessary and may either approve the said schedule or make any changes therein as it deems proper. The schedule thus approved or amended shall be published in the Official Gazette and in such other manner as may be prescribed.'

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12. That in Section 7, the words "or the determination by the Government of the increase in value of lands for the purpose of levying betterment charges" be omitted.

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'at the choice of the person charged in one or more annual instalments not exceeding ten.'

17. That in the Proviso to sub-section (1) of Section 9, after the word "rate", occurring in line 3, the words "not exceeding two per cent" be inserted.

[Mr. Chairman]

Section 11

18. That in Section 11, after the word "occupancy", wherever it occurs, the words "or other" be inserted.

Section 14

19. That in Section 14, for the words "under this Act", the following be substituted, namely:—

'for the levy recovery or apportionment of betterment charges and acreage charges.'

Section 15

20. That for Section 15 the following be substituted, namely:—

'15. *Indemnity from proceedings.*—No claim shall lie against the Government for compensation or for the refund of betterment charges or acreage charges on account of loss occasioned by the failure or stoppage or decrease of water in a canal due to any cause beyond the control of the Government or to any repairs, alterations or additions made to the canal by the Divisional Canal Officer or other officer to any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where he considers such action to be necessary provided such loss was not due to the misconduct, neglect or carelessness of the officer concerned.'

Section 16

21. That Section 16 be omitted.

Section 17

22. That in clause (j) of subsection (2) of Section 17, after the word 'occupancy' the words 'or other' be inserted."

The Minister of Home Affairs and Law (Dr. Katju): I shall send a copy of my hon. friend's speech to the Punjab Government so that when the Punjab Assembly is considering this matter they will bear in mind his various objections and various suggestions. But I must confess the speech is rather inconsistent. In the first place my hon. friend said that there is no water, the dam is not in existence, there is no question of anybody getting water, therefore why enact this,—it has got a psychological effect on the people—the psychological effect being that it is wrong to say to anybody that he will be called upon to pay betterment charges after two years. Now, if that is so, if there is nobody to pay, then this Act will lapse within twelve months and therefore nobody will be hurt. The Act is confined not only to the Bhakra Dam but to every project, every scheme, good, bad, major, minor, for irrigation. We had this problem in every State. The whole problem is this. My hon. colleague, the Finance Minister is here; when he pays the money or when the State Government defrays the amount from their own pocket, it is unfair that the general tax-payer, whether of India or of the State, should be called upon to bear the expense for any project, major, minor, big or small, and small, limited number of people should get benefit out of it. That is a principle everybody will agree with. The question is that something like this had to be passed so that people may not remain under a false impression. I am speaking from knowledge because we had the same problem in Bengal; the people were thinking, it does not matter to us, we are making money, like the lily in the field, neither toil nor spin, and it is the business of the Government to pay the cost, the entire cost. So it is desirable that people should be told that there is something like betterment fee. And it is not a new principle—the principle exists in all town improvement schemes. My hon. friend said, "Oh, it was very very improper and inexpedient to publish this or promulgate this immediately after the elections were over." But the thing had been promulgated, the mischief had been done. If the people were under a false sense of security that water will come and they will not have to pay for it.....

Pandit Thakur Das Bhargava: They do not know anything about it.

Dr. Katju: The hon. Member is very much mistaken. The one impression that all of us have got from the general elections is that people are much wiser than we thought they were. Not only men but women are wise, they have got a very accurate knowledge of what concerns them. I imagine this Act, so far as the betterment fee is concerned, is known all over the countryside throughout the districts of Hissar, Rohtak and others wherever the Bhakra waters will flow. But the mischief has been done, the psychological effect has been created, the false sense of security has been removed. I repeat for the fourth time that the Punjab Legislative Assembly will be there to consider all these questions. They have got to find the money and they will consider whether it should be one-half, one-fourth or even three-fourths. So, I would request my hon. friend to follow the very good example that he has set and withdraw the resolution.

Pandit Thakur Das Bhargava: I beg leave to withdraw the resolution.

The resolution was, by leave, withdrawn.

INDIAN INDEPENDENCE PAKISTAN COURTS (PENDING PROCEEDINGS) BILL—*contd.*

The Minister of Home Affairs and Law (Dr. Katju): I have already moved the motion on the 6th February. The reasons why it has become necessary to bring this Bill are stated at length in the statement of objects and reasons. When I moved the other day for the consideration of this Bill, there was a desire expressed by some hon. Members for an informal discussion. We have had this informal discussion and it has been pointed out that there may be hardship in some individual cases, particularly of people who have come to India from Eastern Pakistan and have become Indian nationals. It was suggested that these new Indian nationals may have obtained decrees in ordinary civil suits against the Government of India in the courts of Eastern Pakistan after full contest—even after an appeal to the High Court—and it would be rather hard on them to deprive them of the fruits of those decrees and compel them to bring separate suits now on payment of court fees. I should like to assure the House that I shall strongly advise the State Governments concerned that although this Bill may be passed in Parliament in the form in which it stands and it may authorise the Government in the letter of the law to ignore any particular decree, they should not do so if they are satisfied that the Government has had a fair opportunity of putting forward its case and after the consideration of the evidence the decision has been given. Government should not be very punctillious and should not take advantage of the letter of the law in such a case, and it should not think, "We have got a good case and the judge was wrong on the merits and therefore we shall have a second shot in the Indian courts." I shall make it clear that that should not be the attitude of either the Central or the State Governments.

[MR. DEPUTY-SPEAKER *in the Chair*]

The chief reasons for bringing forward this Bill are explained in the statement of objects and reasons. As the House is aware before the partition certain agreements were entered into by which the liabilities of the two Governments were divided and it was pointed out in what type of cases the two Governments would be responsible for payment of debts. The misfortune is that, according to us, those inter-Dominion agreements have not been correctly interpreted by the Pakistan courts. While the contract has been carried out in Pakistan and the Pakistan Government has fully derived the benefit of such performance, according to us the Pakistan courts have said with no justification whatever that it is the Indian Government which is responsible and the Pakistan Government has nothing to do with it. They have thrown the burden upon the Indian Government. This view is not shared by the Indian courts and there have been many decisions where Indian courts have taken an absolutely opposite view of the inter-Dominion agreements. It is such cases that we should like to contest when this matter even arises between an Indian national and the Indian Government, whether it be the Central or State Government. But if it is only a private dispute or of a private nature relating to property or anything else in the case of which the interpretation of the inter-Dominion agreements have no place whatsoever, I should like once again to make it clear that I shall instruct the State Governments to take the most liberal attitude in this matter.

Then, the second point that was raised during the informal discussion was that the Bill as it stands extends the period of limitation and gives full opportunity to the decree holders in Pakistan who have now become Indian nationals to bring a separate suit in India. The question was raised that it would be very hard to ask them to pay full court fees, because they have already paid them in Pakistan. Here again, I shall see to it that a concession is extended. There is already a section in the Court Fees Act which authorises all Governments, whether Central or State, to remit by general notification court fees in whole or in part in certain types of cases. The present type of case may be very rare, hardly a few and there should be no difficulty in seeing to it that if the matter does go to court the payment of the court fee may be waived.

These were the two matters that were raised and I thought that the assurances I gave fully satisfied the hon. Members present. In the statement of objects and reasons, we have given the illustrations. I have got instances with me which show that not only has the interpretation of the inter-Dominion agreements proved very un-

[Dr. Katju]

satisfactory but the Government of India have had no facilities for conducting their defence. The legal agency is not available. There is a difference between private litigants and Government litigants. Private litigants, particularly in Eastern Pakistan, can go there. There is no permit or passport. They can travel from one part of Bengal to another and manage their law suits. The Government has to rely upon law agencies. The agencies and the facilities are not available. I understand that particularly in railway cases the Pakistan Railways are not very co-operative and the result is that the Government of India's case very often goes by default and the results are very unsatisfactory. I feel sure that in view of the assurances I have given, hon. Members will feel assured that the difficulties will be removed and the new Indian nationals who have will have no reason to complain.

Mr. Deputy-Speaker: This motion, I understand, has already been placed before the House. I need not place it again. Any hon. Member desiring to speak may do so.

Pandit Kunzru (Uttar Pradesh): This Bill deals with a very important matter. I, therefore, listened carefully to what my hon. friend the Law Minister said. I am glad that he has given us today certain assurances which he did not think of when he placed his motion for the consideration of the Bill before the House. The assurances are satisfactory so far as they go, but the matter is so important that I think that a discussion on certain aspects of the Bill that have not received proper attention at the hands of my hon. friend is necessary.

As has been pointed out in the statement of objects and reasons, when partition took place provision was made for the continuance of proceedings in courts in Bengal, Assam and the Punjab and for the execution of their judgments and orders. It was laid down that the pending proceedings would continue as if no partition had taken place and that the decrees and orders of the courts in one dominion would be given effect to by the other dominion. Now it is sought practically to annul the orders that were passed at the time of the partition and the grounds given for this are three in number. It is said first of all that governmental machinery and legal aid in Pakistan was not available to the Government of India. Then it is said that till recently there was no regular arrangement for obtaining legal aid in Pakistan on behalf of the Central Government. Lastly it is said that even when an advocate was available it was often found difficult to send instructions to him in time. It is also said that the decisions in certain cases create the impression that they were not properly dealt with by the courts concerned.

Now, so far as some of these difficulties go, that is the difficulty of engaging counsels and the difficulty of sending instructions to counsels, they were disabilities that the citizens of India who have to look after cases pending in courts in Pakistan were subject to. The Government and the people are in that respect on the same footing. It may, however, be said that decrees and orders were passed in favour of people residing in Pakistan also and that they consequently had an advantage over the Government of India. It was desirable, therefore, that a distinction should be made in the Bill between orders and decrees passed in favour of citizens of Pakistan and those passed in favour of citizens of India.

Again we should have been told what was the number of persons in whose favour decrees and orders have been passed, but have not yet been executed. If the number of such people is only a hundred, two hundred or three hundred, I wonder whether the anxiety shown by the Government of India in this matter is justifiable. I do not want that a single rupee of the exchequer should be spent unnecessarily, but considering the serious effect that this Bill would have on the people resident in India, I think that steps should have been taken to find out whether the number of cases in which people belonging to Pakistan were interested were so large as to require the practical annulment of the orders referred to in clause 2 of the Bill. If the information that I have asked for is available, I would request the hon. the Law Minister to give it to the House.

Again, I should like to point out with regard to the assurances given by the hon. the Law Minister that any advice that he may give to the States will be in the nature of a recommendation. However, under the orders passed at the time of the partition, the responsibility for the execution of the decrees and orders of courts would have been that of the Government of India. Now the responsibility will be

that of the State Governments. Can he assure the House that the advice given by him will be followed by them in all cases?

Dr. Katju: I hope so; I have no apprehension on that point.

Pandit Kunzru: What I feel is that the law should be so amended as to leave the final decision in these matters in regard to the execution of decrees and orders in the hands of the Government of India. This does not necessarily imply any distrust of the State Governments, but it is not unreasonable to feel that since three State Governments are concerned they may not all take the same view of cases of the same kind. It is not at all unlikely that in cases of the same nature different State Governments may come to different conclusions.

5 P.M.

Mr. Deputy-Speaker: Is the hon. Member likely to take some more time?

Pandit Kunzru: Yes, Sir.

Mr. Deputy-Speaker: Then this matter will stand over for tomorrow. The hon. the Finance Minister.

PAPERS LAID ON THE TABLE

LETTERS *re* EXTENSION OF PERIOD OF STERLING BALANCES AGREEMENT

The Minister of Finance (Shri C. D. Deshmukh): I beg to lay on the Table copies of letters exchanged between the Chancellor of the Exchequer in the United Kingdom Government and myself, formally extending the Sterling Balances Agreement for a period of six years from the 1st July, 1951.

CHANCELLOR OF THE EXCHEQUER

Treasury Chambers,
Whitehall,
LONDON S.W.
8th February, 1952.

My dear Minister,

As a result of the consultation provided for in paragraph 7 of Sir Stafford Cripps' letter of 9th July, 1948, to the Hon. Mr. Chetty which extended the Agreement signed in London on 14th August, 1947 (hereinafter called the "Principal Agreement") between the Government of the United Kingdom and the Government of India, the following arrangements have been agreed upon between our two Governments for the extension of the Principal Agreement:—

1. The Principal Agreement, as modified by Sir Jeremy Raisman's letter of 15th February, 1948, to Mr. Narahari Rao and as further modified by Sir Stafford Cripps' letter of 9th July, 1948, to which I have referred above, and by this letter, shall be extended to 30th June, 1957.

2. There shall be transferred forthwith from the No. 2 Account to the No. 1 Account the sum of £310 million, to be held by the Reserve Bank of India as a currency reserve. It is the intention of the Government of India not to draw upon this sum, and it agrees not to do so without previous consultation with the Government of the United Kingdom.

3. The balance from time to time standing to the credit of the No. 2 Account, after the transfer provided for in paragraph 2 above has been made, shall be transferred to the No. 1 Account in instalments not exceeding £35 million in each of the six periods of twelve months beginning 1st July, 1951, subject to the following provisions:—

(a) Transfers shall only take place as may be necessary to maintain a minimum balance on the No. 1 Account of £340 million or such lesser sum as may be agreed between the two Governments as a result of any consultation which may take place under the provisions of paragraph 2 above.

(b) Any part of the £35 million transferable in any period of twelve months not transferred during that period shall be carried forward and added to the sums available for transfer, subject to (a) above, during the later periods.

(c) If it should appear to the Government of India that in any particular period of twelve months requirements for sterling from No. 2 Account are likely to exceed £35 million, the transfers due in the next subsequent period may be anticipated to the extent of £5 million, and may be made subject to (a) above without further consultation between the two Governments. If the Government of India consider that anticipation to a greater extent is necessary, the two Governments shall consult together with a view to providing for such further anticipation of transfers as may be appropriate.

(d) The transfers referred to in the above paragraphs shall not include the transfers provided for in Articles IV (2) and VIII of the Principal Agreement as extended by subsequent exchanges of letters.

(e) Any balance standing to the credit of the No. 2 Account on 30th June, 1957, shall be transferred automatically to the No. 1 Account.

4. If at any time during the period covered by this exchange of letters transfers from the No. 2 Account to the No. 1 Account appear to be taking place at a rate significantly higher than is consistent with the agreed annual rate, either Government shall have the right to ask that the position should be discussed between the two Governments.

5. The existing understanding regarding hard currency expenditure arrived at during the Commonwealth Finance Ministers' Conference of September, 1950 will be continued subject to such modifications as may be agreed between the two Governments.

6. Further consultations shall take place before the termination of the Principal Agreement as extended by this letter with a view to extending it further or replacing it by another agreement or agreements.

7. I shall be grateful to have your confirmation that this letter sets out the understanding reached between us and that together with your reply it constitutes an extension of the Principal Agreement.

Yours sincerely,
(Sd.) R. A. Butler.

The Hon. Sir Chintaman Deshmukh.

India House,
Aldwych,
London W.C. 2.
8th February, 1952.

My dear Chancellor,

I have to acknowledge receipt of your letter of today's date, reading as follows:

* * * *

I have pleasure in confirming that the understanding of your Government, as set out in that letter, is accepted by my Government.

Yours sincerely,
(Sd.) C. D. Deshmukh.

The Rt. Hon. R. A. Butler, M.P.

Mr. Deputy-Speaker: Have copies been circulated to hon. Members?

Shri C. D. Deshmukh: Copies have been laid on the Table.

Mr. Deputy-Speaker: Have they been circulated to hon. Members?

Shri C. D. Deshmukh: I shall arrange for copies to be circulated.

The House then adjourned till a Quarter to Eleven of the Clock on Thursday, the 14th February, 1952.